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असाधारण

EXTRAORDINARY

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PART II — Section 2

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following Bills were introduced in Lok Sabha on 22nd December 1998:—

BILL No. 170 OF 1998

A Bill further to amend the Representation of the People Act, 1951 and the Indian Penal Code.

Be it enacted by Parliament in the Forty-ninth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Election Laws (Amendment) Act, 1998.

Short title and
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

CHAPTER II

AMENDMENT TO THE REPRESENTATION OF THE PEOPLE ACT, 1951.

43 of 1951.

2. In the Representation of the People Act, 1951 (hereafter in this Chapter referred to as the principal Act), in section 59, for the words, "and no votes shall be received by proxy.", the words "and, save as expressly provided by this Act, no votes shall be received by proxy." shall be substituted.

Amendment of
section 59.

Substitution of new section for section 60.

3. For section 60 of the principal Act, the following section shall be substituted, namely:—

Special procedure for voting by certain classes of persons.

"60. Without prejudice to the generality of the provisions contained in section 59, provision may be made by rules made under this Act for enabling—

(a) any of the persons as is referred to in clause (a) or clause (b) of sub-section (8) of section 20 of the Representation of the People Act, 1950 (hereafter in this section referred to as the 1950-Act) to give his vote either in person or by postal ballot or by proxy, and not in any other manner, at an election in a constituency where poll is taken,

43 of 1950.

(b) any of the following persons to give his vote either in person or by postal ballot, and not in any other manner, at an election in a constituency where a poll is taken, namely:—

(i) any person as is referred to in clause (c) or clause (d) of sub-section (8) of section 20 of the 1950-Act;

(ii) the wife of any such person to whom the provisions of sub-section (3) of section 20 of the 1950-Act apply and such wife being ordinarily residing with that person in terms of sub-section (6) of that section,

(c) any person subjected to preventive detention under any law for the time being in force to give his vote by postal ballot, and not in any other manner, at an election in a constituency where a poll is taken, subject to the fulfilment of such requirements as may be specified in those rules."

Amendment of section 62.

4. In section 62 of the principal Act, after sub-section (5), the following sub-section shall be inserted, namely:—

"(6) Nothing contained in sub-sections (3) and (4) shall apply to a person who has been authorised to vote as proxy for an elector under this Act in so far as he votes as a proxy for such elector."

CHAPTER III

AMENDMENT TO THE INDIAN PENAL CODE

Amendment of section 171D.

5. In section 171D of the Indian Penal Code, the following proviso shall be inserted at the end, namely:—

45 of 1860.

"Provided that nothing in this section shall apply to a person who has been authorised to vote as proxy for an elector under any law for the time being in force in so far as he votes as a proxy for such elector."

STATEMENT OF OBJECTS AND REASONS

Section 60 of the Representation of the People Act, 1951 permits any person with "service qualification" to give his vote by postal ballot. "Service qualification" as defined in sub-section (8) of section 20 of the Representation of the People Act, 1950, *inter alia*, includes members of the armed forces of the Union and of the forces to which the provisions of the Army Act, 1950 have been made applicable with or without modifications.

2. The Election Commission of India, keeping in view the fact that with the enactment of the Representation of the People (Amendment) Act, 1996, the minimum campaign period has been reduced from twenty days to fourteen days and keeping in view the logistic constraints involved in despatching postal ballots to members of the armed forces through their record offices and receiving those ballot papers back before counting process commences, recommended that the members of armed forces, in order to ensure their full participation in the electoral exercise, may be allowed to vote by proxy instead of postal ballot.

3. The Government has considered the matter and has decided to provide an option to the members of the armed forces of the Union and of forces to which the provisions of the Army Act, 1950 have been made applicable, whether with or without modifications, to vote either in person or through the system of postal ballot or through the system of proxy, at an election in the manner to be specified in the rules. This requires amendments to the Representation of the People Act, 1951 and the Indian Penal Code.

4. The Bill seeks to achieve the aforesaid objects.

M. THAMBI DURAI.

NEW DELHI;

The 18th December, 1998.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 3 of the Bill provides for substitution of a new section 60 for the existing section 60 of the Representation of the People Act, 1951, empowering the Central Government to make provisions by rules for enabling certain categories of persons to give their votes in person, by postal ballot or by proxy and not in any other manner at an election in a constituency where poll is taken.

2. The matters in respect of which rules may be made pertain to matters of procedure or administrative detail. It is not practicable to provide for such matters in the Act itself. The delegation of legislative power is, therefore, of a normal character.

BILL NO. 174 OF 1998

A Bill further to amend the Companies Act, 1956.

BE it enacted by Parliament in the Forty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Companies (Amendment) Act, 1998.

Short title and
commence-
ment.

(2) It shall be deemed to have come into force on the 31st day of October, 1998.

1 of 1956.

2. In the Companies Act, 1956 (hereinafter referred to as the principal Act), in section 4A, in sub-section (1), after clause (v), the following clause shall be inserted, namely:—

Amendment of
section 4A.

“(vi) the Infrastructure Development Finance Company Limited, a company formed and registered under this Act.”.

3. In section 58A of the principal Act, after sub-section (10) and before the Explanation, the following sub-section shall be inserted, namely:—

Amendment of
section 58A.

“(11) A depositor may, at any time, make a nomination and the provisions of sections 109A and 109B shall, as far as may be, apply to the nomination made under this sub-section.”.

Insertion of
new sections
77A, 77AA
and 77B.

Power of
company to
purchase its
own securities.

4. After section 77 of the principal Act, the following sections shall be inserted, namely:—

'77A. (1) Notwithstanding anything contained in this Act, but subject to the provisions of sub-section (2) of this section and section 77B, a company may purchase its own shares or other specified securities (hereinafter referred to as "buy-back") out of—

(i) its free reserves; or

(ii) the securities premium account; or

(iii) the proceeds of any shares or other specified securities:

Provided that no buy-back of any kind of shares or other specified securities shall be made out of the earlier proceeds of an earlier issue of the same kind of shares or same kind of other specified securities.

(2) No company shall purchase its own shares or other specified securities under sub-section (1) unless—

(a) the buy-back is authorised by its articles;

(b) a special resolution has been passed in general meeting of the company authorising the buy-back;

(c) the buy-back is or less than twenty-five per cent. of the total paid-up capital and free reserves of the company:

Provided that the buy-back of equity shares in any financial year shall not exceed twenty-five per cent. of its total paid-up equity capital in that financial year.

(d) the ratio of the debt owed by the company is not more than twice the capital and its free reserves after such buy-back:

Provided that the Central Government may prescribe a higher ratio of the debt than that specified under this clause for a class or classes of companies.

Explanation.—For the purposes of this clause, the expression "debt" includes all amounts of unsecured and secured debts.

(e) all the shares or other specified securities for buy-back are fully paid-up;

(f) the buy-back of the shares or other specified securities listed on any recognised stock exchange is in accordance with the regulations made by the Securities and Exchange Board of India in this behalf;

(g) the buy-back in respect of shares or other specified securities other than those specified in clause (f) is in accordance with the guidelines as may be prescribed.

(3) The notice of the meeting at which special resolution is proposed to be passed shall be accompanied by an explanatory statement stating—

(a) a full and complete disclosure of all material facts;

(b) the necessity for the buy-back;

(c) the class of security intended to be purchased under the buy-back;

(d) the amount to be invested under the buy-back; and

(e) the time limit for completion of buy-back.

(4) Every buy-back shall be completed within twelve months from the date of passing the special resolution under Clause (b) of sub-section (2).

(5) The buy-back under sub-section (1) may be—

(a) from the existing security holders on a proportionate basis; or

(b) from the open market; or

(c) from odd lots, that is to say, where the lot of securities of a public company whose shares are listed on a recognised stock exchange, is smaller than such marketable lot, as may be specified by the stock exchange; or

(d) by purchasing the securities issued to employees of the company pursuant to a scheme of stock option or sweat equity.

(6) Where a company has passed a special resolution under clause (b) of sub-section (2) to buy-back its own shares or other securities under this section, it shall, before making such buy-back, file with the Registrar and the Securities and Exchange Board of India a declaration of solvency in the form as may be prescribed and verified by an affidavit to the effect that the Board has made a full inquiry into the affairs of the company as a result of which they have formed an opinion that it is capable of meeting its liabilities and will not be rendered insolvent within a period of one year of the date of declaration adopted by the Board, and signed by at least two directors of the company, one of whom shall be the managing director, if any:

Provided that no declaration of solvency shall be filed with the Securities and Exchange Board of India by a company whose shares are not listed on any recognised stock exchange.

(7) Where a company buys-back its own securities, it shall extinguish and physically destroy the securities so bought-back within seven days of the last date of completion of buy-back.

(8) Where a company completes a buy-back of its shares or other specified securities under this section, it shall not make further issue of the same kind of shares (including allotment of further shares under clause (a) of sub-section (1) of section 81) or other specified securities within a period of twenty-four months except by way of bonus issue or in the discharge of subsisting obligations such as conversion of warrants, stock option schemes, sweat equity or conversion of preference shares or debentures into equity shares.

(9) Where a company buys-back its securities under this section, it shall maintain a register of the securities so bought, the consideration paid for the securities bought-back, the date of cancellation of securities, the date of extinguishing and physically destroying of securities and such other particulars as may be prescribed.

(10) A company shall, after the completion of the buy-back under this section, file with the Registrar and the Securities and Exchange Board of India, a return containing such particulars relating to the buy-back within thirty days of such completion, as may be prescribed:

Provided that no return shall be filed with the Securities and Exchange Board of India by a company whose shares are not listed on any recognised stock exchange.

(11) If a company makes default in complying with the provisions of this section or any rules made thereunder, or any regulations made under clause (f) of sub-section (2), the company or any officer of the company who is in default shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to fifty thousand rupees, or with both.

Explanation.—For the purposes of this section,—

(a) "specified securities" includes employees' stock option or other securities as may be notified by the Central Government from time to time;

(b) "free reserves" shall have the meaning assigned to it in clause (b) of Explanation to section 372A.

Transfer of certain sums to capital redemption reserve account.

77AA. Where a company purchases its own shares out of free reserves, then a sum equal to the nominal value of the share so purchased shall be transferred to the capital redemption reserve account referred to in clause (d) of the proviso to sub-section (1) of section 80 and details of such transfer shall be disclosed in the balance sheet.

Prohibition for buy-back in certain circumstances.

77B. (1) No company shall directly or indirectly purchase its own shares or other specified securities—

(a) through any subsidiary company including its own subsidiary companies; or

(b) through any investment company or group of investment companies; or

(c) if a default, by the company, in repayment of deposit or interest payable thereon, redemption of debentures, as preference shares or payment of dividend to any shareholder or repayment of any term loan or interest payable thereon to any financial institution or bank, is subsisting.

(2) No company shall directly or indirectly purchase its own shares or other specified securities in case such company has not complied with provisions of sections 159, 207 and 211."

Amendment of section 78.

5. In section 78 of the principal Act, for the word "share" wherever it occurs, the word "securities" shall be substituted.

Insertion of new section 79A.

6. After section 79 of the principal Act, the following section shall be inserted, namely:—

Issue of sweat equity shares.

'79A. (1) Notwithstanding anything contained in section 79, a company may issue sweat equity shares of a class of shares already issued if the following conditions are fulfilled, namely:—

(a) the issue of sweat equity shares is authorised by a special resolution passed by the company in the general meeting;

(b) the resolution specifies the number of shares, current market price, consideration, if any, and the class or classes of directors or employees to whom such equity shares are to be issued;

(c) not less than one year has, at the date of the issue elapsed since the date on which the company was entitled to commence business;

(d) the sweat equity shares of a company whose equity shares are listed on a recognised stock exchange are issued in accordance with the regulations made by the Securities and Exchange Board of India in this behalf:

Provided that in the case of a company whose equity shares are not listed on any recognised stock exchange, the sweat equity shares are issued in accordance with the guidelines as may be prescribed.

Explanation I.—For the purposes of this Act, the expression "a company" means the company incorporated, formed and registered under this Act and includes its subsidiary company incorporated in a country outside India.

Explanation II.—For the purposes of this sub-section, the expression "sweat equity shares" means equity shares issued by the company to employees or directors at a discount or for consideration other than cash for providing know-how or making available rights in the nature of intellectual property rights or value additions, by whatever name called.

(2) All the limitations, restrictions and provisions relating to equity shares shall be applicable to such sweat equity shares issued under sub-section (1).'

7. In section 80 of the principal Act, in sub-section (1) in clause (c), for the words "share premium account", the words "security premium account" shall be substituted.

Amendment of section 80.

8. In section 82 of the principal Act, for the word "shares", the words "shares or debentures" shall be substituted.

Amendment of section 82.

9. After section 109 of the principal Act, the following sections shall be inserted, namely:—

Insertion of new sections 109A and 109B.

"109A. (1) Every holder of shares in, or holder of debentures of, a company may, at any time, nominate, in the prescribed manner, a person to whom his shares in, or debentures of, the company shall vest in the event of his death.

Nomination of shares.

(2) Where the shares in, or debentures of, a company are held by more than one person jointly, the joint-holders may together nominate, in the prescribed manner, a person to whom all the rights in the shares or debentures of the company shall vest in the event of death of all the joint holders.

(3) Notwithstanding anything contained in any other law for the time being in force or in any disposition, whether testamentary or otherwise, in respect of such shares in, or debentures of, the company, where a nomination made in the prescribed manner purports to confer on any person the right to vest the shares in, or debentures of the company, the nominee shall, on the death of the shareholder or holder of debentures of the company or, as the case may be, on the death of the joint holders become entitled to all the rights in the shares or debentures of the company or, as the case may be, all the joint holders, in relation to such shares in, or debentures of the company to the exclusion of all other persons, unless the nomination is varied or cancelled in the prescribed manner.

(4) Where the nominee is a minor, it shall be lawful for the holder of the shares, or holder of debentures, to make the nomination to appoint, in the prescribed manner, any person to become entitled to shares in, or debentures of, the company, in the event of his death, during the minority.

109B. (1) Any person who becomes a nominee by virtue of the provisions of section 109A, upon the production of such evidence as may be required by the Board and subject as hereinafter provided, elect, either—

Transmission of shares.

(a) to be registered himself as holder of the share or debenture, as the case may be; or

(b) to make such transfer of the share or debenture, as the case may be, as the deceased shareholder or debenture holder, as the case may be, could have made.

(2) If the person being a nominee, so becoming entitled, elects to be registered as holder of the share or debenture, himself, as the case may be, he shall deliver or send to the company a notice in writing signed by him stating that he so elects and such notice shall be accompanied with the death certificate of the deceased shareholder or debenture holder, as the case may be.

(3) All the limitations, restrictions and provisions of this Act relating to the right to transfer and the registration of transfers of shares or debentures shall be applicable to any such notice or transfer as aforesaid as if the death of the member had not occurred and the notice or transfer were a transfer signed by that shareholder or debenture holder, as the case may be.

(4) A person, being a nominee, becoming entitled to a share or debenture by reason of the death of the holder shall be entitled to the same dividends and other advantages to which he would be entitled if he were the registered holder of the share or debenture

except that he shall not, before registered a member in respect of his share or debenture, be entitled in respect of it to exercise any right conferred by membership in relation to meetings of the company:

Provided that the Board may, at any time, give notice requiring any such person to elect either to be registered himself or to transfer the share or debenture, and if the notice is not complied with within ninety days, the Board may thereafter withhold payment of all dividends, bonuses or other moneys payable in respect of the share or debenture, until the requirements of the notice have been complied with."

Amendment of
section 205A.

10. In section 205A of the principal Act,—

(a) for sub-section (5), the following sub-section shall be substituted, namely:—

"(5) any money transferred to the unpaid dividend account of a company in pursuance of this section which remains unpaid or unclaimed for a period of seven years from the date of such transfer shall be transferred by the company to the Fund established under sub-section (1) of section 205C.";

(b) in sub-section (6),—

(i) for the words "general revenue account of the Central Government", the words, figures and letter "Fund established under section 205C" shall be substituted;

(ii) for the words "to such officer as the Central Government may appoint", the words "to such authority or committee as the Central Government may appoint" shall be substituted;

(c) for sub-section (7), the following sub-section shall be substituted, namely:—

"(7) The company shall be entitled to a receipt from the authority or committee under sub-section (4) of section 205C for any money transferred by it to the Fund and such a receipt shall be an effectual discharge of the company in respect thereof."

Amendment of
section 205B.

11. In section 205B of the principal Act, the following proviso shall be inserted at the end, namely:—

"Provided that nothing contained in this section shall apply to any person claiming to be entitled to any money transferred to the fund on and after the commencement of the Companies (Amendment) Act, 1998."

Insertion of new
section 205C.

12. After section 205B of the principal Act, the following section shall be inserted, namely:—

Establishment
of Investor
Education and
Protection
Fund.

'205C. (1) The Central Government shall establish a fund to be called the Investor Education and Protection Fund (hereafter in this section referred to as the "Fund").

(2) There shall be credited to the Fund the following amounts, namely:—

(a) amounts in the unpaid dividend accounts of companies;

(b) the application moneys received by companies for allotment of any securities and due for refund;

(c) matured deposits with companies;

(d) matured debentures with companies;

(e) the interest accrued on the amount referred to in clauses (a) to (d);

(f) grants and donations given to the Fund by the Central Government, State Governments, companies or any other institutions for the purposes of the Fund; and

(g) the interest or other income received out of the investments made from the Fund:

Provided that no such amounts referred to in clauses (a) to (d) shall form part of the Fund unless such amounts have remained unclaimed and unpaid for a period of seven years from the date they became due for payment.

Explanation.—For the removal of doubts, it is hereby declared that no claims shall lie against the Fund or the company in respect of individual amounts which were unclaimed and unpaid for a period of seven years from the dates that they first became due for payment and no payment shall be made in respect of any such claims.

(3) The Fund shall be utilised for promotion of investor awareness and protection of the interests of investors in accordance with such rules as may be prescribed.

(4) The Central Government shall, by notification in the Official Gazette, specify an authority or committee, with such members as the Central Government may appoint, to administer the Fund, and maintain separate accounts and other relevant records in relation to the Fund in such form as may be prescribed in consultation with the Comptroller and Auditor-General of India.

(5) It shall be competent for the authority or committee appointed under sub-section (4) to spent moneys out of the Fund for carrying out the objects for which the Fund has been established.'

13. After section 210 of the principal Act, the following section shall be inserted, namely:—

Insertion of
new section
210A.

'210A. (1) The Central Government may, by notification in the Official Gazette, constitute an Advisory Committee to be called the National Advisory Committee on Accounting Standards (hereafter in this section referred to as the "Advisory Committee") to advise the Central Government on the formulation and laying down of accounting policies and accounting standards for adoption by companies or class of companies under this Act.

Constitution of
National
Advisory
Committee on
Accounting
standards.

(2) The advisory Committee shall consist of the following members, namely:—

(a) a Chairperson who shall be a person of eminence well versed in accountancy, finance, business administration, business law, economics or similar discipline;

(b) one member each nominated by the Institute of Chartered Accountants of India constituted under the Chartered Accountants Act, 1949, the Institute of Cost and Works Accountants of India constituted under the Cost and Works Accountants Act, 1959 and the Institute of Company Secretaries of India constituted under the Company Secretaries Act, 1980;

(c) one representative of the Central Government to be nominated by it;

(d) one representative of the Reserve Bank of India to be nominated by it;

(e) one representative of the Comptroller and Auditor-General of India to be nominated by him;

(f) a person who holds or has held the office of professor in accountancy, finance or business management in any university or deemed university;

(g) the Chairman of the Central Board of Direct Taxes constituted under the Central Boards of Revenue Act, 1963 or his nominee;

(h) two members to represent the chambers of commerce and industry to be nominated by the Central Government; and

(i) one representative of the Securities and Exchange Board of India to be nominated by it.

38 of 1949.

23 of 1959.
56 of 1980.

54 of 1963.

(3) The Advisory Committee shall give its recommendations to the Central Government on such matters of accounting policies and standards and auditing as may be referred to it for advice from time to time.

(4) The members of the Advisory Committee shall hold office for such terms as may be determined by the Central Government at the time of their appointment and any vacancy in the membership in the Committee shall be filled by the Central Government in the same manner as the member whose vacancy occurred was filled.

(5) The non-official member of the Advisory Committee shall be entitled to such fees, travelling, conveyance and other allowances as are admissible to the officers of the Central Government of the highest rank.

Amendment of
section 211.

14. In section 211 of the principal Act, after sub-section (3), the following sub-sections shall be inserted, namely:—

'(3A) Every profit and loss account and balance sheet of the company shall comply with the accounting standards.

(3B) Where the profit and loss account and the balance-sheet of the company do not comply with the accounting standards, such companies shall disclose in its profit and loss account and balance-sheet, the following, namely:—

- (a) the deviation from the accounting standards;
- (b) the reasons for such deviation; and
- (c) the financial effect, if any, arising due to such deviation.

(3C) For the purposes of this section, the expression "accounting standards" means the standards of accounting recommended by the Institute of Chartered Accountants of India constituted under the Chartered Accountants Act, 1949, as may be prescribed by the Central Government in consultation with the National Advisory Committee on Accounting Standards established under sub-section (1) of section 210A:

38 of 1949.

Provided that the standard of accounting specified by the Institute of Chartered Accountants of India shall be deemed to be the Accounting Standards until the National Advisory Committee on Accounting Standards is established under sub-section (1) of section 210A.

Amendment of
section 217.

15. In section 217 of the principal Act, after sub-section (2A), the following sub-section shall be inserted, namely:—

"(2B) The Board's report shall also specify the reasons for the failure, if any, to complete the buy-back within the time specified in sub-section (4) of section 77A."

Amendment of
section 227.

16. In section 227 of the principal Act, in sub-section (3),—

(i) after clause (c), the following clause shall be inserted, namely:—

"(d) whether, in his opinion, the profit and loss account and balance-sheet comply with the accounting standards referred to in sub-section (3C) of section 211.";

(ii) in sub-section (4), for the word, brackets and letter "and (c)", the brackets, letters and word; "(c) and (d)" shall be substituted.

Amendment of
section 370.

17. In section 370 of the principal Act, after sub-section (5), and before the *Explanation*, the following sub-section shall be inserted, namely:—

"(6) Nothing contained in this section shall apply to a company on and after the commencement of the Companies (Amendment) Act, 1998."

18. In section 372 of the principal Act, after sub-section (14), the following sub-section shall be inserted, namely:—

Amendment of section 372.

"(15) Nothing contained in this section shall apply to a company on and after the commencement of the Companies (Amendment) Act, 1998."

19. After section 372 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 372A.

"372A. (1) No company shall, directly or indirectly,—

Inter-corporate loans and investments.

(a) make any loan to any other body corporate;

(b) give any guarantee, or provide security, in connection with a loan made by any other person to, or to any other person by, any body corporate; and

(c) acquire, by way of subscription, purchase otherwise the securities of any other body corporate,

exceeding sixty per cent. of its paid-up share capital and free reserves, or hundred per cent. of its free reserves, whichever is more:

Provided that where the aggregate of the loans and investments so far made, the amounts for which guarantee or security so far provided to or in all other bodies corporate, along with the investment, loan, guarantee or security proposed to be made or given by the Board, exceeds the aforesaid limits, no investment or loan shall be made or guarantee shall be given or security shall be provided unless previously authorised by a special resolution passed in a general meeting:

Provided further that the Board may give guarantee, without being previously authorised by a special resolution, if,—

(a) a resolution is passed in the meeting of the Board authorising to give guarantee in accordance with the provisions of this section;

(b) there exists exceptional circumstances which prevent the company from obtaining previous authorisation by a special resolution passed in a general meeting for giving a guarantee; and

(c) the resolution of the Board under clause (a) is confirmed within twelve months, in a general meeting of the company or the annual general meeting held immediately after passing of the Board resolution, whichever is earlier:

Provided also that the notice of such resolution shall indicate clearly the specific limits, the particulars of the body corporate in which the investment is proposed to be made or loan or security or guarantee to be given, the purpose of the investment, loan or security or guarantee, specific sources of funding and such other details.

(2) No loan or investment shall be made or guarantee or security given by the company unless the resolution sanctioning it is passed at a meeting of the Board with the consent of all the directors present at the meeting and the prior approval of the public financial institution referred to in section 4A, where any term loan is subsisting, is obtained:

Provided that prior approval of a public financial institution shall not be required where the aggregate of the loans and investments so far made, the amounts for which guarantee or security so far provided to or in all other bodies corporate, along with the investments, loans, guarantee or security proposed to be made or given does not exceed the limit of sixty per cent. specified in sub-section (1), if there is no default in repayment of loan instalments or payment of interest thereon as per the terms and conditions of such loan to the public financial institution:

Provided also that nothing contained in sub-sections (1) and (2) shall apply to—

- (a) any loan made by a holding company to its wholly owned subsidiary;
- (b) any guarantee given or any security provided by a holding company in respect of loan made to its wholly owned subsidiary; or
- (c) acquisition by a holding company, by way of subscription, purchases or otherwise, the securities of its wholly owned subsidiary.

(3) No loan to any body corporate shall be made at a rate of interest lower than the prevailing bank rate, being the standard rate made public under section 49 of the Reserve Bank of India Act, 1934.

2 of 1934

(4) No company, which has defaulted in complying with the provision of section 58A, shall, directly or indirectly,—

- (a) make any loan to any body corporate;
- (b) give any guarantee, or provide security, in connection with a loan made by any other person to, or to any other person by, any body corporate; and
- (c) acquire, by way of subscription, purchase or otherwise the securities of any other body corporate,

till such default is subsisting.

(5) (a) Every company shall keep a register showing the following particulars in respect of every investment or loan made, guarantee given or security provided by it in relation to any body corporate under sub-section (1), namely:—

- (i) the name of the body corporate;
- (ii) the amount, terms and purpose of the investment or loan or security or guarantee;
- (iii) the date on which the investment or loan has been made; and
- (iv) the date on which the guarantee has been given or security has been provided in connection with a loan.

(b) The particulars of investment, loan, guarantee or security referred to in clause (a) shall be entered chronologically in the register aforesaid within seven days of the making of such investment or loan, or the giving of such guarantee or the provision of such security.

(6) The register referred to in sub-section (5) shall be kept at the registered office of the company concerned and—

- (a) shall be open to inspection at such office; and
- (b) extracts may be taken therefrom and copies thereof may be required,

by any member of the company to the same extent, in the same manner, and on payment of the same fees as in the case of the register of members of the company; and the provisions of section 163 shall apply accordingly.

(7) The Central Government may prescribe guidelines for the purposes of this section.

(8) Nothing contained in this section shall apply,—

(a) to any loan made, any guarantee given or any security provided or any investment made by—

- (i) a banking company, or an insurance company, or a housing finance company in the ordinary course of its business, or a company established with the object of financing industrial enterprises, or of providing infrastructural facilities;

(ii) a company whose principal business is the acquisition of shares, stock, debentures or other securities;

(iii) a private company, unless it is a subsidiary of a public company;

(b) to investment made in shares allotted in pursuance of clause (a) of sub-section (1) of section 81.

(9) If default is made in complying with the provisions of this section, other than sub-section (5), the company and every officer of the company who is in default shall be punishable with imprisonment which may extend to two years or with fine which may extend to fifty thousand rupees:

Provided that where any such loan or any loan in connection with which any such guarantee or security has been given, or provided by the company, has been repaid in full, no punishment by way of imprisonment shall be imposed under this sub-section, and where such loan has been repaid in part, the maximum punishment which may be imposed under this sub-section by way of imprisonment shall be appropriately reduced:

Provided further that all persons who are knowingly parties to any such contravention shall be liable, jointly and severally, to the company for the repayment of the loan or for making good the same which the company may have been called upon to pay by virtue of the guarantee given or the securities provided by such company.

(10) If default is made in complying with the provisions of sub-section (5), the company and every officer of the company who is in default shall be punishable with fine which may extend to five thousand rupees and also with a further fine which may extend to five hundred rupees for every day after the first during which the default continues.

Explanation.—For the purposes of this section,—

(a) "loan" includes debentures or any deposit of money made by one company with another company, not being a banking company;

(b) "free reserves" means those reserves which, as per latest audited balance-sheet of the company, are free for distribution as dividend and shall include balance to the credit of the securities premium account but shall not include share application money.

20. In section 642 of the principal Act, after sub-section (3), the following sub-section shall be inserted, namely:—

Amendment
of section
642.

"(4) Every regulation made by the Securities and Exchange Board of India under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation or both Houses agree that the regulation should not be made, the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation."

Ord. 19 of
1998.

21. (1) The Companies (Amendment) Ordinance, 1998 is hereby repealed.

Repeal and
saving.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of the principal Act, as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

The Companies Act, 1956 has been in force for more than four decades and the economy has undergone considerable changes since its introduction. Further, the law relating to Corporate Sector has been undergoing changes in other countries taking into account recent developments in the field of corporate law and practices. Taking into consideration these developments and on the basis of a report prepared by a Working Group constituted in 1996, the Companies Bill, 1997 was introduced in Rajya Sabha on 14th August, 1997 to replace Companies Act, 1956. The Companies Bill, 1997 stands referred to Department related--Standing Committee on Home Affairs and the report of the Standing Committee is awaited.

2. In view of the urgency felt by the Government in this regard and as Parliament was not in Session, the President promulgated the Companies (Amendment) Ordinance, 1998 (19 of 1998) on the 31st October, 1998. It is proposed to replace the Companies (Amendment) Ordinance, 1998 by a Bill which, *inter alia* provides for the following matters:—

(a) to declare Infrastructure Development Finance Company Limited as a public financial institution;

(b) to provide for nomination facility to the holders of shares, debentures and fixed deposit holders;

(c) allowing the companies to buy-back their shares subject to certain safeguards;

(d) to provide for transfer of certain sums to the capital redemption reserve account when a company purchases its own shares out of free reserve;

(e) to provide for issue of sweat equity subject to fulfilment of certain conditions;

(f) to provide for establishment of Investors Education and Protection Fund;

(g) to provide for constitution of National Advisory Committee on accounting standard;

(h) to provide for compliance of accounting standards by a company in preparation of profit and loss account and balance-sheet; and

(i) to permit the companies to make inter-corporate investments and loans subject to fulfilment of certain conditions without prior approval of the Central Government.

3. The corporate sector is going through difficult times. The capital market is also at low ebb, which requires immediate morale boosting efforts on the part of the Government to promote investors' confidence. Besides, the economy needs certain impetus for promoting inter-corporate investments considering slow flow of funds in new investments. In order to overcome these adverse conditions faced by the corporate sector, it was felt that the company should be permitted to buy-back their own shares, to make investments or loans freely without prior approval of the Central Government, to provide for nomination facility to the holders of shares, deposits and debentures and also to make provision in law for establishment of Investors Education and Protection Fund broadly on the line of provisions contained in the Companies Bill, 1997.

4. In the present Bill, as compared to the Ordinance promulgated, some further changes have been made in order to make some of the legal provisions more simple, practical and specific and to remove ambiguity in respect of some other provisions. Broadly, the changes are as follows:—

(a) buy-back of shares has been restricted to twenty-five per cent. of the paid-up capital and the funds used for this purpose are not to exceed twenty-five per cent. of the paid-up capital and free reserves. Free reserves have been defined for the purpose of buy-back;

(b) restriction of twenty-four months, after the buy-back, for further issue of securities will apply only in respect of issue of the same security. The Company will have no restriction to issue other securities during this period;

(c) prior approval of financial institutions in case of investment/loan/guarantee up to sixty per cent. of the networth will not be required if there is no default in repayment of loan/interest to public financial institutions;

(d) company shall not be allowed to make any inter-corporate investment if there is a default in repayment of deposits or interest thereon. Restrictions on Inter-corporate Investment will also not apply in case of wholly owned subsidiary companies or companies established with object of financing industrial enterprises and for subscribing to right shares;

(e) in case of corporate guarantee, the companies would be permitted to obtain *ex-post-facto* approval of the shareholders within a specified period;

(f) the powers to the Board of Directors to decline or to suspend registration of shares in case of a nominee have been withdrawn;

(g) for transfer of unclaimed funds from company to Investor Protection Fund, the period has been increased from five years to seven years and thereafter no claim to be entertained;

(h) for issue of sweat equity, a special resolution has been provided instead of ordinary resolution;

5. The Bill seeks to replace the said Ordinance.

NEW DELHI;
The 17th December, 1998.

M. THAMBI DURAI.

FINANCIAL MEMORANDUM

Clause 13 of the Bill provides for constitution of National Advisory Committee on accounting standards to advise the Central Government on formulation and laying down the accounting policy and accounting standards for adoption by companies or class of companies under the said provisions. As per-sub-section (5) of section 210A, the non-official members of the Advisory Committee shall be entitled to fees, travelling, conveyance and other allowances as are admissible to officers of the Central Government of the highest rank. The Committee is likely to be notified only during 1998-1999. It is, therefore, proposed to make a provision of one lakh rupees during 1998-1999.

2. The total expenditure to implement the provisions of the Bill, thus, works out to approximately one lakh rupees annually as recurring expenditure. The Bill will not involve any other expenditure of recurring or non-recurring nature.

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill proposes to amend and insert certain sections in the Companies Act, 1956.

Clause 4 of the Bill proposes to insert a new section 77A relating to power of the company to purchase its own securities. Clause (d) of sub-section (2) of the proposed section 77A confers powers upon the Central Government to prescribe higher ratio of debt than that specified under clause (d) for a class or classes of companies.

2. Clause (g) of sub-section (2) of the proposed section 77A confers powers upon the Central Government to prescribe the guidelines for buy-back in respect of shares or other specified securities other than that which are listed on any recognised stock exchanges.

3. Sub-section (6) of the proposed section 77A confers powers upon the Central Government to prescribe the form of the declaration of solvency to be filed with the Registrar and the Securities and Exchange Board of India under that sub-section.

4. Sub-section (9) of the proposed section 77A confers powers upon the Central Government to prescribe such other particulars in respect of which the register of securities bought back shall be maintained by a company which buys back its securities.

5. Sub-section (10) of the proposed section 77A confers powers upon the Central Government to prescribe the particulars to be contained in the return to be filed with the Registrar and the Securities and Exchange Board of India after the completion of the buy-back under this section.

6. Clause 6 of the Bill proposes to insert a new section 79A relating to issue of sweat equity shares.

7. Proviso to clause (d) of sub-section (1) of the proposed section 79A confers powers upon the Central Government to prescribe the guidelines for issue of the sweat equity shares in the case of a company whose shares are not listed on any recognised stock exchange.

8. Clause 9 of the Bill proposes to insert new section 109A and 109B relating to nomination of shares and transmission of shares. Sub-section (3) of the proposed section 109A confers powers upon the Central Government to prescribe the manner in which the nomination is varied or cancelled under that sub-section.

9. Clause 12 of the Bill proposes to insert a new section 205C relating to the establishment of an Investors Education and Protection Fund. Sub-section (4) of the proposed section 205C confers powers upon the Central Government to prescribe in consultation with the Comptroller and Auditor-General of India, the form in which the accounts and other relevant records shall be maintained under that sub-section.

10. Clause 14 of the Bill proposes to amend section 211 in relation to the Fund relating to accounting standards, balance sheet and profit and loss account. The proposed sub-section (3C) confers powers upon the Central Government to prescribe the accounting standards in consultation with the National Advisory Committee on Accounting Standards proposed to be established under the new section 210A.

11. Clause 19 of the Bill proposes to insert a new section 372A relating to inter-corporate loans and investments and sub-section (7) of the proposed section 372A confers powers upon the Central Government to prescribe guidelines for the purposes of this section.

12. Clause 4 of the Bill seeks to insert a new section 77A relating to power of the company to purchase its own securities. Clause (f) of sub-section (2) of the proposed section 77A confers powers upon the Securities and Exchange Board of India to make regulations in respect of buy-back of the shares of other specified securities listed on any recognised stock exchange.

13. Clause 6 of the Bill proposes to insert a new section 79A relating to issue of sweat equity shares. Clause (d) of sub-section (1) of the proposed 79A confers powers upon the Securities and Exchange Board of India to make regulations in respect of sweat equity shares of a company whose equity shares are listed on a recognised stock exchange issued under this section.

14. The matters in respect of which the aforesaid rules and regulations may be made are generally matter of procedural in nature and envisages details and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

Memorandum explaining the modifications contained in the Bill to replace the Companies (Amendment) Ordinance, 1998.

The Companies (Amendment) Bill, 1998 which seeks to replace the Companies (Amendment) Ordinance, 1998, proposes to make the following modifications apart from modifications of consequential or drafting nature in the provisions contained in the said Ordinance, namely:—

1. Clause 4 of the Bill corresponds to section 4 of the ordinance which proposes to amend section 77A of the Companies Act, 1956.

(a) it is proposed to insert a proviso to sub-section (1) of section 77A to provide that no buy-back of any kind of shares or other specified securities shall be made out of the earlier proceeds of the same kind of shares or same kind of other specified securities. The proposed modification is of a clarificatory nature;

(b) it is proposed to insert a proviso to clause (c) of sub-section (2) to provide that the buy-back of equity shares in any financial year is or less than twenty-five per cent of its total paid-up equity capital in that financial year so that a company may not reduce its equity capital by more than twenty five per cent in that financial year;

(c) It is proposed to insert a proviso to and an explanation in clause (d) of sub-section (2) to provide that the Central Government may prescribe a higher ratio of the debt than that specified under this clause for a class or classes of companies so that a fair treatment can be given to a particular class or classes of companies. It is also proposed to give an explanation to the expression 'debt';

(d) It is proposed to amend sub-section (8) of section 77A to clarify that the restriction of twenty four months is for the type of securities being bought back by the companies and the company can issue securities of a different nature;

(e) It is proposed to insert clause (b) in the Explanation to section 77A so as to definition of the expression "free reserves";

(f) It is proposed to insert a new section 77AA relating to transfer of certain sums to capital redemption reserve account where a company purchases its own shares out of free reserves;

(g) It is proposed to amend clause (c) of sub-section (1) of section 77B so as to provide that if there is a default in payment of interest payable on the deposits or payment of dividend or repayment of interest payable on any term loan it would constitute a default for the purpose of this section;

(h) It is also proposed to insert a new sub-section (2) in section 77B to provide that no company shall directly or indirectly purchase its own shares or other specified securities in case such company has not complied with the provisions of sections 159, 207 and 211.

2. Clause 5 of the Bill is a new clause which proposes to amend section 78 of the Companies Act, 1956 so as to substitute the word "share " by the word "securities" so as to amend the expression "share premium account" to the "security premium account"

3. Clause 6 of the Bill corresponds to section 5 of the ordinance which proposes to amend section 79A of the Companies Act 1956.

(a) It is proposed to amend clause (a) of sub-section (1) of section 79A so as to provide that the sweat equity shares shall be issued only when authorised by a special resolution passed by the company in the general meeting;

(b) It is proposed to amend clause (b) of sub-section (1) of section 79A so as to provide that the resolution shall specify inter-alia current market price and consideration of the sweat equity shares proposed to be issued;

(c) It is proposed to insert a proviso in clause (d) of sub-section (1) of section 79A so as to provide that a company whose equity shares are not listed on any recognised stock exchange, shall issue the equity shares in accordance with the guidelines as may be prescribed.

4. Clause 7 of the Bill is a new clause which proposes to amend section 80 of the Companies Act, 1956 to substitute expression "Share Premium Account" by "Security Premium Account".

5. Clause 9 of the Bill corresponds to section 7 of the ordinance which proposes to insert new sections 109A and 109B. It is now proposed to omit sub-section (2) of the proposed section 109B to make it clear that the Board shall have no right to decline or suspend registration of transfer in the event of nomination by the shareholders in favour of a nominee.

6. Clause 10 of the Bill corresponds to section 8 of the ordinance which proposes to amend sub-section (5) of section 205A of the Companies Act, 1956 so as to increase the period from five years to seven years for the purpose of transfer of un-paid dividends to the Investors Education and Protection Fund established under section 205C.

7. Clause 11 and 12 of the Bill corresponds to sections 9 and 10 of the ordinance which propose to amend section 205B and 205C of the Companies Act, 1956. It is proposed to insert an Explanation in sub-section (2) so as to provide that no claim shall lie against the fund or the company in respect of individual amounts which were unclaimed and unpaid for a period of seven years from the dates when they first became due for payment and no payment shall be made in respect of any such claims.

8. Clause 15 of the Bill is a new clause which proposes to insert a new sub-section (2B) in section 217 of the Companies Act, 1956 so as to provide that the Board's report shall also specify the reasons for the failure to complete buy-back within time specified under section 77A.

9. Clause 19 of the Bill corresponds to section 16 of the ordinance which proposes to insert a new section 372A in the Companies Act, 1956.

(a) It is proposed to insert two provisions in sub-section (2) of section 372A so as to provide that the prior approval of public financial institutions shall not be required if there is no default in repayment of loan instalments or payment of interest thereon as per the terms and conditions of such loans for making investment not exceeding the limit of 60 per cent of paid-up capital and reserves of the company;

(b) It is also proposed that no prior approval of the shareholders will be necessary in respect of provision of any guarantee or giving of any security in exceptional circumstances if the company obtains the approval of the shareholders within twelve months in a general meeting or an annual general meeting after passing the Board resolution approving the giving of guarantee by the company;

(c) It is proposed to amend sub-section (3) of section 372A so as to define the 'bank rate';

(d) It is proposed to insert a new sub-section (4) in section 372A so as to provide that no company which has defaulted in complying with the provisions of section 58A of the Act shall make any loan, give any guarantee or provide any security or acquire any share or other security in other body corporate till such default is subsisting;

(e) It is proposed to amend sub-section (7) of section 372A to provide that the Securities and Exchange Board of India shall not be consulted by the Central Government for the purpose of prescribing guidelines under this section;

(f) It is proposed to insert clause (b) in sub-section (8) of section 372A to exempt subscription of shares pursuant to clause (a) of sub-section (1) of section 81 from compliance with the provisions.

10. The other modifications are purely of drafting and clarificatory nature.

BILL NO. 171 OF 1998

A Bill to provide for the reorganisation of the existing State of Uttar Pradesh and for matters connected therewith.

BE it enacted by Parliament in the Forty-ninth Year of the Republic of India as follows:—

PART I

PRELIMINARY

1. This Act may be called the Uttar Pradesh Reorganisation Act, 1998.

Short title

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "appointed day" means the day which the Central Government may, by notification in the Official Gazette, appoint;

(b) "article" means an article of the Constitution;

(c) "assembly constituency", "council constituency" and "Parliamentary constituency" have the same meanings as in the Representation of the People Act, 1950;

(d) "Election Commission" means the Election Commission appointed by the President under article 324;

(e) "existing State of Uttar Pradesh" means the State of Uttar Pradesh as existing immediately before the appointed day;

(f) "law" includes any enactment, ordinance, regulation, order, bye-law, rule, scheme, notification or other instrument having, immediately before the appointed day, the force of law in the whole or in any part of the existing State of Uttar Pradesh;

(g) "notified order" means an order published in the Official Gazette;

(h) "population ratio", in relation to the States of Uttar Pradesh and Uttarakhand, means the ratio of 1321 to 70;

(i) "sitting member", in relation to either House of Parliament or of the Legislature of the existing State of Uttar Pradesh, means a person who immediately before the appointed day, is a member of that House;

(j) "successor State", in relation to the existing State of Uttar Pradesh, means the State of Uttar Pradesh or Uttarakhand;

(k) "transferred territory" means the territory which on the appointed day is transferred from the existing State of Uttar Pradesh to the State of Uttarakhand;

(l) "treasury" includes a sub-treasury; and

(m) any reference to a district, tehsil or other territorial division of the existing State of Uttar Pradesh shall be construed as a reference to the area comprised within that territorial division on the appointed day.

PART II

REORGANISATION OF THE STATE OF UTTAR PRADESH

Formation of
Uttarakhand
State.

3. On and from the appointed day, there shall be formed a new State to be known as the State of Uttarakhand comprising the following territories of the existing State of Uttar Pradesh, namely:—

Pauri Garhwal, Tehri Garhwal, Uttar Khshi, Chamoli, Dehradun, Nainital, Almora, Pithorgarh, Udham Singh Nagar, Bageshwar, Champawat and Rudraprayag, Haridwar districts,

and thereupon the said territories shall cease to form part of the existing State of Uttar Pradesh.

State of Uttar
Pradesh and
territorial
divisions
thereof.

4. On and from the appointed day, the State of Uttar Pradesh shall comprise the territories of the existing State of Uttar Pradesh other than those specified in section 3.

Amendment
of the First
Schedule to
the
Constitution.

5. On and from the appointed day, in the First Schedule to the Constitution, under the heading "I. THE STATES",—

(a) in the paragraph relating to the territories of the State of Uttar Pradesh, after the words, brackets and figures "the Bihar and Uttar Pradesh (Alteration of Boundaries) Act, 1968", the following shall be inserted, namely:—

"the territories specified in section 4 of the Uttar Pradesh Reorganisation act, 1998.";

(b) after entry 25, the following entry shall be inserted, namely:—

"26. Uttarakhand: The territories specified in section 3 of the Uttar Pradesh Reorganisation Act, 1998."

Saving Power
of State
Government.

6. Nothing in the foregoing provisions of this Part shall be deemed to affect the power of the Government of Uttar Pradesh or Uttarakhand to alter, after the appointed day, the name, area or boundaries of any district or other territorial division in the State.

PART III

REPRESENTATION IN THE LEGISLATURES

The Council of States

7. On and from the appointed day, in the Fourth Schedule to the Constitution, in the Table,—

- (a) entries 16 to 27 shall be renumbered as entries 17 to 28 respectively;
- (b) in entry 15, for the figures "34", the figures "31" shall be substituted;
- (c) after entry 15, the following entry shall be inserted, namely:—

"16. Uttarakhand.....3".

Amendment of the Fourth Schedule to the Constitution.

8. (1) On and from the appointed day, thirty-four sitting members of the Council of the States representing the existing State of Uttar Pradesh shall be deemed to have been elected to fill the seats allotted to the States of Uttar Pradesh and Uttarakhand, as specified in the First Schedule of this Act.

Allocation of sitting members.

(2) The term of office of such sitting members shall remain unaltered.

The House of the People

9. On and from the appointed day, there shall be allocated 80 seats to the successor State of Uttar Pradesh, and 5 to the successor State of Uttarakhand, in the House of the People, and the First Schedule to the Representation of the People Act, 1950 shall be deemed to be amended accordingly.

Representation in the House of the People.

10. On and from the appointed day, the delimitation of Parliamentary and Assembly Constituencies Order, 1976, shall stand amended as directed in the Second Schedule to this Act.

Delimitation of Parliamentary and Assembly constituencies.

11. (1) Every sitting member of the House of the People representing a constituency which, on the appointed day by virtue of the provisions of section 10, stands allotted, with or without alteration of boundaries, to the successor States of Uttar Pradesh or Uttarakhand, shall be deemed to have been elected to the House of the People by that constituency as so allotted.

Provision as to sitting members.

(2) The term of office of such sitting members shall remain unaltered.

The Legislative Assembly

12. (1) The number of seats as on the appointed day in the Legislative Assemblies of the States of Uttar Pradesh and Uttarakhand shall be four hundred and three and sixty respectively.

Provisions as to Legislative Assemblies.

(2) In the Second Schedule to the Representation of the People Act, 1950,—

- (a) entries 24 and 25 shall be renumbered as entries 25 and 26 respectively;
- (b) after entry 23, the following entry shall be inserted, namely:—

"24. Uttarakhand.....60";

(c) in entry 25 as so renumbered, for the figures "425", the figures "403" shall be substituted.

13. (1) Every sitting member of the Legislative Assembly of the existing State of Uttar Pradesh elected to fill a seat in that Assembly from a constituency which on the appointed day by virtue of the provisions of section 10 stands allotted, with or without alteration of boundaries, to the State of Uttarakhand shall, on and from that day, cease to be a member of the Legislative Assembly of Uttar Pradesh and shall be deemed to have been elected to fill a seat in the Legislative Assembly of Uttarakhand from that constituency as so allotted.

Allocation of sitting members.

(2) All other sitting members of the Legislative Assembly of the existing State of Uttar Pradesh shall continue to be members of the Legislative Assembly of that State and any such sitting member representing a constituency the extent, or the name and extent of which are altered by virtue of the provisions of section 10 shall be deemed to have been elected to the Legislative Assembly of Uttar Pradesh by that constituency as so altered.

43 of 1950.

43 of 1950.

(3) Notwithstanding anything contained in any other law for the time being in force, the Legislative Assemblies of Uttar Pradesh and Uttarakhand shall be deemed to be duly constituted on the appointed day.

(4) The sitting member of the Legislative Assembly of the existing State of Uttar Pradesh nominated to that Assembly under article 333 to represent the Anglo-Indian community shall be deemed to have been nominated to represent the said community in the Legislative Assembly of Uttar Pradesh under that article.

Composition
of provisional
Legislative
Assembly of
Uttarakhand.

14. (1) On and from the appointed day and until the Legislative Assembly of the successor State of Uttarakhand has been duly constituted and summoned to meet for the first session under the provisions of the Constitution, a provisional Legislative Assembly of the State of Uttarakhand, consisting of the twenty-two sitting members of the Legislative Assembly and six members of the Legislative Council of the existing State of Uttar Pradesh representing the Assembly constituencies or Councils constituencies of the territories transferred by virtue of the provisions of section 3 shall be constituted.

(2) The provisional Legislative Assembly of the State of Uttarakhand shall exercise all the powers and perform all the duties conferred by the provisions of the Constitution on the Legislative Assembly of that State.

(3) The term of office of the members of the Provisional Legislative Assembly of the State of Uttarakhand shall, unless the said Legislative Assembly is sooner dissolved, expire immediately before the first meeting of the Legislative Assembly of the State of Uttarakhand or on the expiry of one year from the date of the first sitting of the provisional Legislative Assembly.

Duration of
Legislative
Assemblies

15. The period of five years referred to in clause (1) of article 172 shall, in the case of the Legislative Assembly of the State of Uttar Pradesh be deemed to have commenced on the date on which it actually commenced in the case of the Legislative Assembly of the existing State of Uttar Pradesh.

Speakers and
Deputy
Speakers.

16. (1) The persons who immediately before the appointed day are the Speaker and Deputy Speaker of the Legislative Assembly of the existing State of Uttar Pradesh shall continue to be the Speaker and Deputy Speaker respectively of that Assembly on and from that day.

(2) As soon as may be after the appointed day, the provisional Legislative Assembly of the successor State of Uttarakhand shall choose two members of that Assembly to be respectively Speaker and Deputy Speaker thereof and until they are so chosen, the duties of the office of Speaker shall be performed by such member of the Assembly as the Governor may appoint for the purpose.

Rules of
procedure.

17. The rules of procedure and conduct of business of the Legislative Assembly of Uttar Pradesh as in force immediately before the appointed day shall, until rules are made in clause (1) of article 208, be the rules of procedure and conduct of business of the Legislative Assembly of Uttarakhand, subject to such modifications and adaptations as may be made therein by the Speaker thereof.

The Legislative Council of Uttar Pradesh

Legislative
Council of
Uttar Pradesh.

18. On and from the appointed day, there shall be one hundred and three seats in the Legislative Council of Uttar Pradesh, and in the Third Schedule to the Representation of the People Act, 1950, for the existing entry 8, the following entry shall be substituted, namely:—

43 of 1950.

“8. Uttar Pradesh..... 102”.

Amendment
of the
Delimitation
of Council
Constituencies.

19. On and from the appointed day, the Delimitation of the Council Constituencies (Uttar Pradesh) Order, 1951 shall stand amended as directed in the Third Schedule.

20. (1) On and from the appointed day, the sitting members of the Legislative Council of the existing State of Uttar Pradesh specified in the Fourth Schedule to this Act shall cease to be members of that Council and shall be deemed to be the members of the provisional Legislative Assembly.

Provision as to
certain sitting
members

(2) On and from the appointed day, all sitting members of the Legislative Council of the existing State of Uttar Pradesh other than those referred to in sub-section (1) shall continue to be members of that Council.

(3) The term of office of the members referred to in sub-section (2) shall remain unaltered.

21. The person who immediately before the appointed day is the Deputy Chairman of the Legislative Council of the existing State of Uttar Pradesh shall continue to be the Deputy Chairman, on and from that day of that Council.

Deputy
Chairman.

Delimitation of constituencies

22. (1) For the purpose of giving effect to the provisions of section 12, the Election Commission shall determine in the manner hereinafter provided—

Delimitation
of
constituencies.

(a) the number of seats to be reserved for the Scheduled Castes and the Scheduled Tribes in the Legislative Assemblies of the States of Uttar Pradesh and Uttarakhand, respectively, having regard to the relevant provisions of the Constitution;

(b) the assembly constituencies into which each State referred to in clause (a) shall be divided the extent of each of such constituencies and in which of them seats shall be reserved for the Scheduled Castes or for the Scheduled tribes; and

(c) the adjustments in the boundaries and description of the extent of the parliamentary constituencies in each State referred to in clause (a), that may be necessary or expedient.

(2) In determining the matters referred to in clauses (b) and (c) of sub-section (1), the Election Commission shall have regard to the following provisions, namely:—

(a) all the constituencies shall be single-member constituencies;

(b) all constituencies shall, as far as practicable, be geographically compact areas, and in delimiting them, regard shall be had to physical features, existing boundaries of administrative units, facilities of communication and conveniences to the public; and

(c) constituencies in which seats are reserved for the Scheduled Castes and the Scheduled Tribes shall, as far as practicable, be located in areas where the proportion of their population to the total population is the largest.

(3) The Election Commission shall, for the purpose of assisting it in the performance of its functions under sub-section (1), associate with itself as associate members five persons as the Central Government may by order specify, being persons who are members of the Legislative Assembly of the State or of the House of the People representing the State:

Provided that none of the associate members shall have a right to vote or to sign any decision of the Election Commission.

(4) If, owing to death or resignation, the office of an associate member falls vacant, it shall be filled as far as practicable, in accordance with the provisions of sub-section (2).

(5) The Election Commission shall—

(a) publish its proposals for the delimitation of the constituencies together with the dissenting proposals, if any, of any associate member who desires publication thereof in the Official Gazette and in such other manner as the Commission may consider fit, together with a notice inviting objections and suggestions in relation to

the proposals and specifying a date on or after which the proposals will be further considered by it;

(b) consider all objections and suggestions which may have been received by it before the date so specified;

(c) after considering all objections and suggestions which may have been received by it before the date so specified, determine by one or more orders the delimitation of constituencies and cause such order or orders to be published in the Official Gazette; and upon such publication, the order or orders shall have the full force of law and shall not be called in question in any court.

(6) As soon as may be after such publication, every such order relating to assembly constituencies shall be laid before the Legislative Assembly of the concerned State.

Power of
Election
Commission
to maintain
Delimitation
Orders up-to-
date.

23. (1) The Election Commission may, from time to time, by notification in the Official Gazette,—

(a) correct any printing mistakes in any order made under section 23 or any error arising therein from inadvertent slip or omission;

(b) where the boundaries or name of any territorial division mentioned in any such order or orders is or are altered, make such amendments as appear to it to be necessary or expedient for bringing such order up-to-date.

(2) Every notification under this section relating to an assembly constituency shall be laid, as soon as may be after it is issued, before the concerned Legislative Assembly.

Scheduled Castes and Scheduled Tribes

Amendment
of the
Scheduled
Castes Order.

24. On and from the appointed day, the Constitution (Scheduled Castes) Order, 1950, shall stand amended as directed in the Fifth Schedule to this Act.

Amendment
of the
Scheduled
Tribes Order.

25. On and from the appointed day, the Constitution (Scheduled Tribes) Order, 1950, shall stand amended as directed in the Sixth Schedule to this Act.

Part IV

HIGH COURT

Common
High Court for
Uttar Pradesh
and
Uttarakhand.

26. (1) On and from the appointed day,—

(a) there shall be a common High Court for the States of Uttar Pradesh and Uttarakhand to be called the High Court of judicature at Allahabad (hereafter in this Chapter referred to as the common High Court);

(b) the Judges of the High Court of the existing State of Uttar Pradesh holding office immediately before the appointed day shall, unless they have elected otherwise become, on that day, the Judges of the common High Court.

(2) The expenditure in respect of salaries and allowances of the Judges of the common High Court shall be allocated amongst the States of Uttar Pradesh and Uttarakhand in such proportion as the President may, by order, determine.

Jurisdiction of
common High
Court.

27. On and from the appointed day, the common High Court shall have, in respect of the territories comprised in the States of Uttar Pradesh and Uttarakhand, all such jurisdiction, powers and authority as, under the law in force immediately before the appointed day, are exercisable in respect of those territories by the High Court of judicature at Allahabad.

25 of 1961.

28. (1) On and from the appointed day,—**(a) in the Advocates Act, 1961, in section 3,—****(i) in clause (a), the words "the Uttar Pradesh" shall be omitted;****(ii) after clause (f), the following clause shall be inserted, namely:—****"(g) for the States of Uttar Pradesh and Uttarakhand to be known as the Bar Council of Uttar Pradesh and Uttarakhand.";****(b) the Bar Council of Uttar Pradesh shall be deemed to be the Bar Council of Uttar Pradesh and Uttarakhand with the Advocate-General of the State of Uttarakhand also as an *ex officio* member.****(2) Any person who immediately before the appointed day is an advocate entitled to practise in the High Court of the existing State of Uttar Pradesh shall be entitled to practise as an advocate in the common High Court.****(3) All persons who immediately before the appointed day are advocates on the roll of the Bar Council of existing State of Uttar Pradesh shall, as from that day, become advocates on the roll of the Bar Council of Uttar Pradesh and Uttarakhand.****(4) The right of audience in the common High Court shall be regulated in accordance with the like principles as immediately before the appointed day are in force with respect to the right of audience in the High Court for Uttar Pradesh:****Provided that as between the Advocate-General of the existing State of Uttar Pradesh and the Advocate-General of Uttarakhand, the right of audience shall be determined with reference to their dates of enrolment as advocates.****29. Subject to the provisions of this Part, the law in force immediately before the appointed day with respect to practice and procedure in the High Court for the existing State of Uttar Pradesh shall, with the necessary modifications, apply in relation to the common High Court.****30. The law in force immediately before the appointed day with respect to the custody of the seal of the High Court for the existing State of Uttar Pradesh shall, with the necessary modifications, apply with respect to the custody of the seal of the common High Court.****31. The law in force immediately before the appointed day with respect to the form of writs and other processes used, issued or awarded by the High Court for the existing State of Uttar Pradesh shall, with the necessary modifications, apply with respect to the form or writs and other processes used, issued or awarded by the common High Court.****32. The law in force immediately before the appointed day with respect to the powers of the Chief Justice, single Judges and division courts of the High Court for the existing State of Uttar Pradesh and with respect to all matters ancillary to the exercise of those powers shall, with the necessary modifications, apply in relation to the common High Court.****33. (1) The principal seat of the common High Court shall, unless otherwise determined by the President after consultation with the Chief Justice of that High Court and the Governors of the States of Uttar Pradesh and Uttarakhand, be at the same place as the principal seat of the High Court for Uttar Pradesh immediately before the appointed day.****(2) The President may, after consultation with the Chief Justice of the common High Court and the Governors of the States of Uttar Pradesh and Uttarakhand, by notified order, provide for the establishment of a permanent bench or benches of that High Court at one or more place or places within the territories to which the Jurisdiction of the High Court extends, other than the principal seat of the High Court and for any matters connected therewith:****Provided that such number of Judges of the High Court of Judicature at Allahabad as sitting at Lucknow in order to exercise the jurisdiction and power as vested in them before the appointed day shall continue to sit thereat and exercise the same jurisdiction and power for the time being vested in the common High Court.**

Special provision relating to Bar Council and advocates

Practice and procedure in common High Court.

Custody of seal of common High Court

Form of writs and other processes

Powers of Judges.

Principal seat of common High Court.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), the Judges and division courts of the common High Court may also sit at such other place or places in the States of Uttar Pradesh and Uttarakhand as Chief Justice may, with the approval of the Governors of the States of Uttar Pradesh and Uttarakhand, appoint.

Procedure as to appeals to Supreme Court.

34. The law in force immediately before the appointed day relating to appeals to the Supreme Court from the High Court for Uttar Pradesh and the Judges and division courts thereof, shall, with the necessary modifications, apply in relation to the common High Court.

Transfer of pending proceedings.

35. All proceedings pending in the High Court for Uttar Pradesh immediately before the appointed day shall, on that day, stand transferred to the common High Court.

Interpretation.

36. For the purpose of this Part,—

(a) proceedings shall be deemed to be pending in a court until that court has disposed of all issues between the parties including any issues with respect to the taxation of the costs of the proceedings and shall include appeals, applications for leave to appeal to the Supreme Court, applications for review, petitions for revision and petitions for writs; and

(b) reference to a High Court shall be construed as including references to a Judge or division court thereof, and references to an order made by a court or a Judge shall be construed as including references to a sentence, judgment or decree passed or made by that court or Judge.

Saving.

37. Nothing in this Part shall affect the application to the common High Court of any provisions of the Constitution, and this Part shall have effect subject to any provision that may be made on or after the appointed day with respect to that High Court by any Legislature or other authority having power to make such provision.

PART V

AUTHORISATION OF EXPENDITURE AND DISTRIBUTION OF REVENUES

Authorisation of expenditure of Uttarakhand State.

38. The Governor of Uttar Pradesh may, at any time before the appointed day, authorise such expenditure from the Consolidated Fund of the State of Uttarakhand as he deems necessary for any period not more than six months beginning with the appointed day pending the sanction of such expenditure by the Legislative Assembly of the State of Uttarakhand:

Provided that the Governor of Uttarakhand may, after the appointed day, authorise such further expenditure as he deems necessary from the Consolidated Fund of the State of Uttarakhand for any period not extending beyond the said period of six months.

Reports relating to accounts of Uttar Pradesh State.

39. (1) The reports of the Comptroller and Auditor General of India referred to in clause (2) of article 151 relating to the accounts of the existing State of Uttar Pradesh in respect of any period prior to the appointed day shall be submitted to the Governor of each of the successor States of Uttar Pradesh and Uttarakhand who shall cause them to be laid before the Legislature of that State.

(2) The President may by order—

(a) declare any expenditure incurred out of the Consolidated Fund of Uttar Pradesh on any service in respect of any period prior to the appointed day during the financial year or in respect of any earlier financial year in excess of the amount granted for that service and for that year as disclosed in the reports referred to in sub-section (1) to have been duly authorised; and

(b) provide for any action to be taken on any matter arising out of the said reports.

40. The President shall, by order, determine the share of the States of Uttar Pradesh and Uttarakhand in its total amount payable to the existing States of Uttar Pradesh on the recommendation of the Finance Commission constituted under article 280 in such manner as he thinks fit.

Distribution of Revenue.

PART VI

APPORTIONMENT OF ASSETS AND LIABILITIES

41. (1) The provisions of this Part shall apply in relation to the apportionment of the assets and liabilities of the existing State of Uttar Pradesh immediately before the appointed day.

Application of Part.

(2) The successor States shall be entitled to receive benefits arising out of the decisions taken by the predecessor State and the successor States shall be liable to bear the financial liabilities arising out of the decisions taken by the existing State of Uttar Pradesh.

(3) The apportionment of assets and liabilities would be subject to such financial adjustment as may be necessary to secure just, reasonable and equitable apportionment of the assets and liabilities amongst the successor States.

(4) Any dispute regarding the amount of financial assets and liabilities shall be settled through mutual agreement, failing which by order by Central Government on the advice of the Comptroller and Auditor General of India.

42. (1) Subject to the other provisions of this Part, all land and all stores, articles and other goods belonging to the existing State of Uttar Pradesh shall,—

Land and goods.

(a) if within the transferred territory, pass to the State of Uttarakhand; or

(b) in any other case, remain the property of the State of Uttar Pradesh:

Provided that where the Central Government is of opinion that any goods or class of goods should be distributed among the States of Uttar Pradesh and Uttarakhand, otherwise than according to the situation of the goods, the Central Government may issue such directions as it thinks fit for a just and equitable distribution of the goods and the goods shall pass to the successor States accordingly.

(2) Stores held for specific purposes, such as use or utilisation in particular institutions, workshops or undertakings or on particular works under construction, shall pass to the successor States in whose territories such institutions, workshops, undertakings or works are located.

(3) Stores relating to the Secretariat and offices of Heads of Departments having jurisdiction over the whole of the existing State of Uttar Pradesh shall be divided between the successor States in accordance with such directions as the Central Government may think fit to issue for a just and equitable distribution of such stores.

(4) Any other unissued stores of any class in the existing State of Uttar Pradesh shall be divided between the successor States in proportion to the total stores of that class purchased in the period of three years prior to the appointed day, for the territories of the existing State of Uttar Pradesh included respectively in each of the successor States:

Provided that where such proportion cannot be ascertained in respect of any class of stores or where the value of any class of such stores does not exceed rupees ten thousand, that class of stores shall be divided between the successor States according to the population ratio.

(5) In this section, the expression "land" includes immovable property of every kind and any rights in or over such property, and the expression "goods" does not include coins, bank notes and currency notes.

Treasury and
bank balances.

43. The total of the cash balances in all treasuries of the State of Uttar Pradesh and the credit balances of the State with Reserve Bank of India, the State Bank of India or any other bank immediately before the appointed day shall be divided between the States of Uttar Pradesh and Uttarakhand according to the population ratio:

Provided that for the purposes of such division, there shall be no transfer of cash balances from any treasury to any other treasury and the apportionment shall be effected by adjusting the credit balances of the two States in the books of the Reserve Bank of India on the appointed day:

Provided further that if the State of Uttarakhand has no account on the appointed day with the Reserve Bank of India, the adjustment shall be made in such manner as the Central Government may, by order, direct.

Arrears of
taxes.

44. The right to recover arrears of any tax or duty on property, including arrears of land revenue, shall belong to the successor State in which the property is situated, and the rights to recover arrears of any other tax or duty shall belong to the successor State in whose territories the place of assessment of that tax or duty is included on the appointed day.

Right to
recover loans
and advances.

45. (1) The right of the State of Uttar Pradesh to recover any loans or advances made before the appointed day to any local body, society, agriculturist or other person in an area within that State shall belong to the successor State in which that area is included on that day.

(2) The right of the State of Uttar Pradesh to recover any loans or advances made before the appointed day to any person or institution outside that State shall belong to the State of Uttar Pradesh:

Provided that any sum recovered in respect of any such loan or advance shall be divided between the States of Uttar Pradesh and Uttarakhand according to the population ratio.

Investments
and credits in
certain funds.

46. (1) The securities held in respect of the investments made from Cash Balances Investment Account or from any Fund in the Public Account of the existing State of Uttar Pradesh as specified in the Seventh Scheduled shall be apportioned in the ratio of population of the successor States:

Provided that the securities held in investments made from the Calamity Relief Fund of the existing State of Uttar Pradesh shall be divided in the ratio of the area of the territories occupied by the successor States:

Provided further that the balance in the Reserve Funds in the Public Account of Uttar Pradesh created wholly out of appropriations from the Consolidated Fund of the existing State of Uttar Pradesh, to the extent the balances have not been invested outside Government account, shall not be carried forward to similar Reserve Funds in the Public Account of the successor States.

(2) The State of Uttar Pradesh shall contribute a sum of rupees fifty crores towards the cost of construction of the capital of Uttarakhand.

(3) The investments of the State of Uttar Pradesh immediately before the appointed day in any special fund, the objects of which are confined to a local area, shall belong to the State in which that area is included on the appointed day.

(4) The investments of the State of Uttar Pradesh immediately before the appointed day in any private, commercial or industrial undertaking, in so far as such investments have not been made or are deemed not to have been made from the Cash Balance Investment Account, shall pass to the State in which the principal seat of business of the undertaking is located.

(5) Where any body corporate constituted under a Central Act, State Act or Provincial Act for the State of Uttar Pradesh or any part thereof has, by virtue of the provisions of Part II, become an inter-State body corporate, the investments in, or loans or advances to, any such body corporate by the State of Uttar Pradesh made before the appointed day shall, save as otherwise expressly provided by or under this Act, be divided between the States of Uttar Pradesh and Uttarakhand in the same proportion in which the assets of the body corporate are divided under the provisions of this Part.

47. (1) The assets and liabilities relating to any commercial or industrial undertaking of the State of Uttar Pradesh shall pass to the State in which the undertaking is located.

Assets and
liabilities of
State under-
takings.

(2) Where a depreciation reserve fund is maintained by the State of Uttar Pradesh for any such commercial or industrial undertaking, the securities held in respect of investments made from that fund shall pass to the State in which the undertaking is located.

48. (1) All liabilities on account of Public Debt and Public Account of the existing State of Uttar Pradesh outstanding immediately before the appointed day shall be apportioned in the ratio of population of the successor States unless a different mode of apportionment is provided under the provisions of this Act.

Public Debt.

(2) The individual items of liabilities to be allocated to the successor States and the amount of contribution required to be made by one successor State to another shall be such as may be ordered by the Central Government in consultation with the Comptroller and Auditor General of India:

Provided that till such orders are issued, the liabilities on account of Public Debt and Public Account of the existing State of Uttar Pradesh shall continue to be the liabilities of the successor State of Uttar Pradesh.

(3) The liability on account of loans raised from any source and lent by the existing State of Uttar Pradesh to such entities as may be specified by the Central Government and whose area of operation is confined to either of the successor States shall devolve on the respective States as specified in sub-section (4).

(4) The public debt of the existing State of Uttar Pradesh attributable to loan taken from any source for the express purpose of re-lending the same to a specific institution and outstanding immediately before the appointed day shall—

(a) if re-lent to any local body, body corporate or other institution in any local area, be the debt of the State in which the local area is included on the appointed day; or

(b) if re-lent to the Uttar Pradesh State Electricity Board, the Uttar Pradesh State Road Transport Corporation, or the Uttar Pradesh Housing Board or any other institution which becomes an inter-State institution on the appointed day, be divided between the States of Uttar Pradesh and Uttarakhand in the same proportion in which the assets of such body corporate or institution are divided under the provisions of Part VII.

(5) Where a sinking fund or a depreciation fund is maintained by the existing State of Uttar Pradesh for repayment of any loan raised by it, the securities held in respect of investments made from that fund shall be divided between the successor States of Uttar Pradesh and Uttarakhand in the same proportion in which the total public debt is divided between the two States under this section.

(6) In this section, the expression "Government security" means a security created and issued by a State Government for the purpose of raising a public loan and having any of the forms specified in, or prescribed under clause (2) of section 2 of the Public Debt Act, 1944.

49. The liability of the State of Uttar Pradesh in respect of any floating loan to provide short-term finance to any commercial undertaking shall be the liability of the State in whose territories the undertaking is located.

Floating Debt.

Refund of
taxes collected
in excess.

50. The liability of the existing State of Uttar Pradesh to refund any tax or duty on property, including land revenue, collected in excess shall be the liability of the successor State in whose territories the property is situated and the liability of the existing State of Uttar Pradesh to refund any other tax or duty collected in excess shall be the liability of the successor State in whose territories the place of assessment of that tax or duty is included.

Deposits, etc.

51. (1) The liability of the existing State of Uttar Pradesh in respect of any civil deposit or local fund deposit shall, as from the appointed day, be the liability of the State in whose area the deposit has been made.

(2) The liability of the existing State of Uttar Pradesh in respect of any charitable or other endowment shall, as from the appointed day, be the liability of the State in whose area the institution entitled to the benefit of the endowment is located or of the State to which the objects of the endowment, under the terms thereof, are confined.

Provident
fund.

52. The liability of the existing State of Uttar Pradesh in respect of the provident fund account of a Government servant in service on the appointed day shall, as from that day, be the liability of the State to which that Government servant is permanently allotted.

Pensions.

53. The liability of the existing State of Uttar Pradesh in respect of pensions shall pass to, or be apportioned between, the successor States of Uttar Pradesh and Uttarakhand in accordance with the provisions contained in the Eighth Schedule to this Act.

Contracts.

54. (1) Where, before the appointed day, the existing State of Uttar Pradesh has made any contract in the exercise of its executive power for any purposes of the State, that contract shall be deemed to have been made in the exercise of the executive power—

(a) if the purposes of the contract are, on and from the appointed day, exclusive purposes of either of the successor States of Uttar Pradesh and Uttarakhand; and

(b) in any other case, of the State of Uttar Pradesh,

and all rights and liabilities which have accrued, or may accrue under any such contract shall, to the extent to which they would have been rights or liabilities of the existing State of Uttar Pradesh, be rights or liabilities of the State of Uttarakhand or the State of Uttar Pradesh, as the case may be:

Provided that in any such case as is referred to in clause (b), the initial allocation of rights and liabilities made by this sub-section shall be subject to such financial adjustment as may be agreed upon between the successor States of Uttar Pradesh and Uttarakhand or in default of such agreement, as the Central Government may by order direct.

(2) For the purposes of this section, there shall be deemed to be included in the liabilities which have accrued or may accrue under any contract—

(a) any liability to satisfy an order or award made by any court or other tribunal in proceedings relating to the contract; and

(b) any liability in respect of expenses incurred in or in connection with any such proceedings.

(3) This section shall have effect subject to the other provisions of this Part relating to the apportionment of liabilities in respect of loans, guarantees and other financial obligations; and bank balances and securities shall, notwithstanding that they partake of the nature of contractual rights, be dealt with under those provisions.

55. Where, immediately before the appointed day, the existing State of Uttar Pradesh is subject to any liability in respect of any actionable wrong other than breach of contract, that liability shall,—

Liability in respect of actionable wrong.

(a) if the cause of action arose wholly within the territories which, as from that day, are the territories of either of the successor States of Uttar Pradesh or Uttarakhand, be a liability of that successor State; and

(b) in any other case, be initially a liability of the State of Uttar Pradesh, but subject to such financial adjustment as may be agreed upon between the States of Uttar Pradesh and Uttarakhand or, in default of such agreement, as the Central Government may by order direct.

56. Where, immediately before the appointed day, the State of Uttar Pradesh is liable as guarantor in respect of any liability of a registered co-operative society or other person, that liability of the existing State of Uttar Pradesh shall—

Liability as guarantor.

(a) if the area of operations of such society or persons is limited to the territories which, as from that day, are the territories of either of the States of Uttar Pradesh or Uttarakhand, be a liability of that successor State; and

(b) in any other case, be initially a liability of the State of Uttar Pradesh, subject to such financial adjustment as may be agreed upon between the States of Uttar Pradesh and Uttarakhand or, in default of such agreements, as the Central Government may by order direct.

57. If any item in suspense is ultimately found to affect an asset or liability of the nature referred to in any of the foregoing provisions of this Part, it shall be dealt with in accordance with that provision.

Items in suspense.

58. The benefit or burden of any asset or liability of the existing State of Uttar Pradesh not dealt with in the foregoing provisions of this Part shall pass to the State of Uttar Pradesh in the first instance, subject to such financial adjustment as may be agreed upon between the States of Uttar Pradesh and Uttarakhand or, in default of such agreement, as the Central Government may, by order, direct.

Residuary provision.

59. Where the successor States of Uttar Pradesh and Uttarakhand agree that the benefit or burden of any particular asset or liability should be apportioned between them in a manner other than that provided for in the foregoing provisions of this Part, notwithstanding anything contained therein, the benefit or burden of that asset or liability shall be apportioned in the manner agreed upon.

Apportionment of assets or liabilities by agreement.

60. Where, by virtue of any of the provisions of this Part, any of the successor States of Uttar Pradesh and Uttarakhand becomes entitled to any property or obtains any benefits or becomes subject to any liability, and the Central Government is of opinion, on a reference made within a period of three years from the appointed day by either of the States, that it is just and equitable that property or those benefits should be transferred to, or shared with, the other successor State, or that a contribution towards that liability should be made by the other successor State, the said property or benefits shall be allocated in such manner between the two States, or the other State shall make to the State subject to the liability such contribution in respect thereof, as the Central Government may, after consultation with the two State Governments, by order determine.

Power of Central Government to order allocation or adjustment in certain cases.

61. All sums payable either by the State of Uttar Pradesh or by the State of Uttarakhand to the other States or by the Central Government to either of those States, by virtue of the provisions of this Act, shall be charged on the Consolidated Fund of the State by which such sums are payable or, as the case may be, the Consolidated Fund of India.

Certain expenditure to be charged on Consolidated Fund.

PART VII

PROVISIONS AS TO CERTAIN CORPORATIONS

Provisions as
to Uttar
Pradesh State
Electricity
Board and
State
Warehousing
Corporation.

62. (1) The following bodies corporate constituted for the existing State of Uttar Pradesh, namely:—

(a) the State Electricity Board constituted under the Electricity Supply Act, 1948; and

54 of 1948.

(b) the State Warehousing Corporation established under the Warehousing Corporations Act, 1962.

58 of 1962

shall, on and from the appointed day, continue to function in those areas in respect of which they were functioning immediately before that day, subject to the provisions of this section and to such directions as may, from time to time, be issued by the Central Government.

(2) Any directions issued by the Central Government under sub-section (1) in respect of the Board or the Corporation shall include a direction that the Act under which the Board or the Corporation was constituted shall, in its application to that Board or Corporation, have effect subject to such exceptions and modifications as the Central Government thinks fit.

(3) The Board or the Corporation referred to in sub-section (1) shall cease to function as from, and shall be deemed to be dissolved on such date as the Central Government may, by order, appoint; and upon such dissolution, its assets, rights and liabilities shall be apportioned between the successor States of Uttar Pradesh and Uttarakhand in such manner as may be agreed upon between them within one year of the dissolution of the Board or the Corporation, as the case may be, or if no agreement is reached, in such manner as the Central Government may, by order determine.

(4) Nothing in the preceding provisions of this section shall be construed as preventing the Government of the State of Uttar Pradesh or, as the case may be, the Government of the State of Uttarakhand from constituting, at any time on or after the appointed day, a State Electricity Board or a State Warehousing Corporation for the State under the provisions of the Act relating to such Board or Corporation; and if such a Board or Corporation is so constituted in either of the States before the dissolution of the Board or the Corporation referred to in sub-section (1),—

(a) provision may be made by order of the Central Government enabling the new Board or the new Corporation to take over from the existing Board or Corporation all or any of its undertakings, assets, rights and liabilities in that State, and

(b) upon the dissolution of the existing Board or Corporation,—

(i) any assets, rights and liabilities which would otherwise have passed to that State by or under the provisions of sub-section (3) shall pass to the new Board or the new Corporation instead of to that State;

(ii) any employee who would otherwise have been transferred to or re-employed by that State under sub-section (3), read with clause (i) of sub-section (5), shall be transferred to or re-employed by the new Board or the new Corporation instead of to or by that State;

(5) An agreement entered into between the successor States under sub-section (3) and an order made by the Central Government under that sub-section or under clause (a) of sub-section (4) may provide for the transfer or re-employment of any employee of the Board or the Corporation referred to in sub-section (1),—

(i) to or by the successor States, in the case of an agreement under sub-section (2) or an order made under that sub-section;

(ii) to or by the new Board or the new Corporation constituted under sub-section (4), in the case of an order made under clause (a) of that sub-section.

and, subject to the provisions of section 68, also for the terms and conditions of service applicable to such employees after such transfer or re-employment.

63. If it appears to the Central Government that the arrangement in regard to the generation or supply of electric power or the supply of water for any area or in regard to the execution of any project for such generation or supply has been or is likely to be modified to the disadvantage of that area by reason of the fact that it is, by virtue of the provisions of Part II, outside the State in which the power stations and other installations for the generation and supply of such power, or the catchment area, reservoirs and other works for the supply of water, as the case may be, are located, the Central Government may give such directions as it deems proper to the State Government or other authority concerned for the maintenance, so far as practicable, of the previous arrangement.

Continuance of arrangements in regard to generation and supply of electric power and supply of water.

63 of 1951.

64. (1) The Uttar Pradesh State Financial Corporation established under the State Financial Corporation Act, 1951 shall, on and from the appointed day, continue to function in those areas in respect of which it was functioning immediately before that day, subject to the provisions of this section and to such directions as may, from time to time, be issued by the Central Government.

Provisions as to Uttar Pradesh State Financial Corporation.

(2) Any directions issued by the Central Government under sub-section (1) in respect of the Corporation may include a direction that the said Act, in its application to the Corporation, shall have effect subject to such exceptions and modifications as may be specified in the direction.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), the Board of Directors of the Corporation may, with the previous approval of the Central Government and shall, if so, required by the Central Government, convene at any time after the appointed day a meeting for the consideration of a scheme for the reconstitution or reorganisation or dissolution, as the case may be, of the Corporation, including proposals regarding the formation of new Corporations, and the transfer thereto of the assets, rights and liabilities of the existing Corporation, and if such a scheme is approved at the general meeting by a resolution passed by a majority of the shareholders present and voting, the scheme shall be submitted to the Central Government for its sanction.

(4) If the scheme is sanctioned by the Central Government either without modifications or with modifications which are approved at a general meeting, the Central Government shall certify the scheme, and upon such certification, the scheme shall, notwithstanding anything to the contrary contained in any law for the time being in force, be binding on the corporations affected by the scheme as well as the shareholders and creditors thereof.

(5) If the scheme is not so approved or sanctioned, the Central Government may refer the scheme to such Judge of the High Court of Uttar Pradesh and Uttarakhand as may be nominated in this behalf by the Chief Justice thereof, and the decision of the Judge in regard to the scheme shall be final and shall be binding on the corporations affected by the scheme as well as the shareholders and creditors thereof.

(6) Nothing in the preceding provisions of this section shall be construed as preventing the Government of the States of Uttar Pradesh and Uttarakhand from constituting, at any time on or after the appointed day, a State Financial Corporation for that State under the State Financial Corporations Act, 1951.

63 of 1951.

65. (1) Notwithstanding anything contained in the foregoing provisions of this Part, each of the companies specified in the Ninth Schedule to this Act shall, on and from the appointed day and until otherwise provided for in any law, or in any agreement among the successor States, or in any direction issued by the Central Government, continue to function in the areas in which it was functioning immediately before that day; and the Central Government may from time to time issue such directions in relation to such functioning as

Provisions as to certain corporations.

it may deem fit, notwithstanding anything to the contrary contained in the Companies Act, 1956, or in any other law.

1 of 1956.

(2) Any directions issued under sub-section (1) in respect of a company referred to in that sub-section, may include directions—

(a) regarding the division of the interests and shares in the company between the State of Uttar Pradesh and Uttarakhand;

(b) requiring the reconstitution of the Board of Directors of the Company so as to give adequate representation to all the successor States.

General provision as to statutory corporations.

66. (1) Save as otherwise expressly provided by the foregoing provisions of this Part, where any body corporate constituted under a Central Act, State Act or Provincial Act for the existing State of Uttar Pradesh or any part thereof has, by virtue of the provisions of Part II, become an inter-State body corporate, then, the body corporate shall, on and from the appointed day, continue to function and operate in those areas in respect of which it was functioning and operating immediately before that day, subject to such directions as may from time to time be issued by the Central Government, until other provision is made by law in respect of the said body corporate.

(2) Any directions issued by the Central Government under sub-section (1) in respect of any such body corporate shall include a direction that any law by which the said body corporate is governed shall, in its application to that body corporate, have effect subject to such exceptions and modifications as may be specified in the direction.

Temporary provisions as to continuance of certain existing road transport permits.

67. (1) Notwithstanding anything contained in section 88 of the Motor Vehicles Act, 1998, a permit granted by the State Transport Authority of the existing State of Uttar Pradesh or any Regional Transport Authority in that State shall, if such permit was, immediately before the appointed day, valid and effective in any area in the transferred territory, be deemed to continue to be valid and effective in that area after that day subject to the provisions of that Act as for the time being in force in that area; and it shall not be necessary for any such permit to be countersigned by the State Transport Authority of Uttarakhand or any Regional Transport Authority therein for the purpose of validating it for use in such area:

59 of 1988.

Provided that the Central Government may, after consultation with the successor State Government or Governments concerned add to, amend or vary the conditions attached to the permit by the Authority by which the permit was granted.

(2) No tolls, entrance fees or other charges of a like nature shall be levied after the appointed day in respect of any transport vehicle for its operations in any of the successor States under any such permit, if such vehicle was immediately before that day, exempt from the payment of any such toll, entrance fees or other charges for its operations in the transferred territory:

Provided that the Central Government may, after consultation with the State Government or Governments concerned, authorise the levy of any such toll, entrance fees or other charges, as the case may be.

Special provisions relating to retrenchment compensation in certain cases.

68. Where on account of the reorganisation of the State of Uttar Pradesh under this Act, any body corporate constituted under a Central Act, State Act or Provincial Act, any co-operative society registered under any law relating to co-operative societies or any commercial or industrial undertaking of that State is reconstituted or reorganised in any manner whatsoever or is amalgamated with any other body corporate, co-operative society or undertaking, or is dissolved, and in consequence of such reconstitution, reorganisation, amalgamation or dissolution, any workman employed by such body corporate or in any such co-operative society or undertaking, is transferred to, or re-employed by any other body corporate, or in any other co-operative society or undertaking, then notwithstanding anything contained in section 25F, 25FF or 25FFF of the Industrial Disputes Act, 1947, such transfer or re-employment shall not entitle him to any compensation under the section:

14 of 1947.

Provided that—

(a) the terms and conditions of service applicable to the workman after such transfer or re-employment are not less favourable to the workman than those applicable to him immediately before the transfer or re-employment;

(b) the employer in relation to the body corporate, the co-operative society or the undertaking where the workman transferred or re-employed is, by agreement or otherwise, legally liable to pay to the workman, in the event of his retrenchment, compensation under section 25F, 25FF or 25FFF of the Industrial Disputes Act, 1947 on the basis that his service has been continuous and has not been interrupted by the transfer or re-employment.

14 of 1947.

69. Where the assets, rights and liabilities of any body corporate carrying on business are, under the provisions of this Part, transferred to any other bodies corporate which after the transfer carry on the same business, the losses or profits or gains sustained by the body corporate first mentioned which, but for such transfer, would have been allowed to be carried forward and set off in accordance with the provisions of Chapter VI of the Income-tax Act, 1961, shall be apportioned amongst the transferee bodies corporate in accordance with the rules to be made by the Central Government in this behalf and, upon such apportionment, the share of loss allotted to each transferee body corporate shall be dealt with in accordance with the provisions of Chapter VI of the said Act, as if the transferee body corporate had itself sustained such loss in a business carried on by it in the years in which these losses were sustained.

Special provision as to income-tax

43 of 1961.

70. (1) The Government of State of Uttar Pradesh or Uttarakhand, as the case may be, shall, in respect of the institutions specified in the Tenth Schedule to this Act, located in that State, continue to provide facilities to the people of the other State which shall not, in any respect, be less favourable to such people than what were being provided to them before the appointed day, for such period and upon such terms and conditions as may be agreed upon between the two State Governments before the first day of December, 1999 or if no agreement is reached by the said date as may be fixed by order of the Central Government.

Continuance of facilities in certain State institutions.

(2) The Central Government may, at any time before the first day of December, 1999, by notification in the Official Gazette, specify in the Schedule referred to in sub-section (1) any other institution existing on the appointed day in the States of Uttar Pradesh and Uttarakhand and on the issue of such notification, such Schedule shall be deemed to be amended by the inclusion of the said institution therein.

PART VIII

PROVISIONS AS TO SERVICES

71. (1) In this section, the expression "State Cadre"—

(a) in relation to the Indian Administrative Service, has the meaning assigned to it in the Indian Administrative Service (Cadre) Rules, 1954;

(b) in relation to the Indian Police Service, has the meaning assigned to it in the Indian Police Service (Cadre) Rules, 1954; and

(c) in relation to the Indian Forest Service, has the meaning assigned to it in the Indian Forest Service (Cadre) Rules, 1966.

Provisions relating to All-India Services.

(2) In place of the cadres of the Indian Administrative Service, Indian Police Service and Indian Forest Service for the existing State of Uttar Pradesh, there shall, on and from the appointed day, be two separate cadres, one for the State of Uttar Pradesh and the other for the State of Uttarakhand in respect of each of these services.

(3) The initial strength and composition of the State cadres referred to in sub-section (2) shall be such as the Central Government may, by order, determine before the appointed day.

(4) The members of each of the said service borne on the Uttar Pradesh cadre thereof immediately before the appointed day shall be allocated to the State cadres of the same service constituted under sub-section (2) in such manner and with effect from such date or dates as the Central Government may, by order specify.

(5) Nothing in this section shall be deemed to affect the operation, on or after the appointed day, of the All-India Services Act, 1951, or the rules made thereunder.

61 of 1951.

Provisions
relating to
other services.

72. (1) Every person who immediately before the appointed day is serving in connection with the affairs of the existing State of Uttar Pradesh shall, on and from that day provisionally continue to serve in connection with the affairs of the State of Uttar Pradesh unless he is required, by general or special order of the Central Government to serve provisionally in connection with the affairs of the State of Uttarakhand:

Provided that no direction shall be issued under this section after the expiry of a period of one year from the appointed day.

(2) As soon as may be after the appointed day, the Central Government shall, by general or special order, determine the successor State to which every person referred to in sub-section (1) shall be finally allotted for service and the date with effect from which such allotment shall take effect or be deemed to have taken effect.

(3) Every person who is finally allotted under the provisions of sub-section (2) to a successor State shall, if he is not already serving therein be made available for serving in the successor State from such date as may be agreed upon between the Governments concerned or in default of such agreement, as may be determined by the Central Government.

Other
provisions
relating to
services.

73. (1) Nothing in this section or section 72 shall be deemed to affect on or after the appointed day the operation of the provisions of Chapter I of Part XIV of the Constitution in relation to determination of the conditions of service of persons serving in connection with the affairs of the Union or any State:

Provided that the conditions of service applicable immediately before the appointed day in the case of any person deemed to have been allocated to the State of Uttar Pradesh or to the State of Uttarakhand under section 72 shall not be varied to his disadvantage except with the previous approval of the Central Government.

(2) All services prior to the appointed day rendered by a person—

(a) if he is deemed to have been allocated to any State under section 72, shall be deemed to have been rendered in connection with the affairs of that State;

(b) if he is deemed to have been allocated to the Union in connection with the administration of the Uttarakhand shall be deemed to have been rendered in connection with the affairs of the Union,

for the purposes of the rules regulating his conditions of service.

(3) The provisions of section 72, shall not apply in relation to members of any All-India Service.

Provisions as
to continuance
of officers in
same post.

74. (1) Every person who, immediately before the appointed day is holding or discharging the duties of any post or office in connection with the affairs of the existing State of Uttar Pradesh in any area which on that day falls within any of the successor States shall continue to hold the same post or office in that successor State, and shall be deemed, on and from that day, to have been duly appointed to the post or office by the Government of, or any other appropriate authority in that successor State:

Provided that nothing in this section shall be deemed to prevent a competent authority, on and from the appointed day, from passing in relation to such person any order affecting the continuance in such post or office.

75. The Central Government may, by order establish one or more Advisory Committees for the purpose of assisting it in regard to—

Advisory
Committees.

(a) the discharge of any of its functions under this Part; and

(b) the ensuring of fair and equitable treatment to all persons affected by the provisions of this Part and the proper consideration of any representations made by such persons.

76. The Central Government may give such directions to the State Government of Uttar Pradesh and the State Government of Uttarakhand as may appear to it to be necessary for the purpose of giving effect to the foregoing provisions of this Part and the State Government shall comply with such directions.

Power of
Central
Government
to give
directions.

77. (1) The Public Service Commission for the existing State of Uttar Pradesh shall, on and from the appointed day, be the Public Service Commission for the State of Uttar Pradesh.

Provisions as
to State Public
Service
Commission.

(2) The persons holding office immediately before the appointed day as the Chairman or other member of the Public Service Commission for the existing State of Uttar Pradesh shall, as from the appointed day, be the Chairman or, as the case may be, the other member of the Public Service Commission for the State of Uttar Pradesh.

(3) Every person who becomes the Chairman or other member of the Public Service Commission for the State of Uttar Pradesh on the appointed day under sub-section (2), shall—

(a) be entitled to receive from the Government of the State of Uttar Pradesh conditions of service not less favourable than those to which he was entitled under the provisions applicable to him;

(b) subject to the proviso to clause (2) of article 316, hold office or continue to hold office until the expiration of his term of office as determined under the provisions applicable to him immediately before the appointed day.

(4) The report of the Uttar Pradesh Public Service Commission as to the work done by the Commission in respect of any period prior to the appointed day shall be presented under clause (2) of article 323 to the Governors of the States of Uttar Pradesh and Uttarakhand, and the Governor of the State of Uttar Pradesh shall, on receipt of such report, cause a copy thereof together with a memorandum explaining as far as possible, as respects the cases, if any, where the advice of the Commission was not accepted, the reasons for such non acceptance to be laid before the Legislature of the State of Uttar Pradesh and it shall not be necessary to cause such report or any such memorandum to be laid before the Legislative Assembly of the State of Uttarakhand.

CHAPTER IX

MANAGEMENT AND DEVELOPMENT OF WATER RESOURCES

78. (1) Notwithstanding anything contained in this Act but subject to the provisions of section 79, all rights and liabilities of the existing State of Uttar Pradesh in relation to a water resource projects in relation to,—

Water
Resources
Development
and its
Management.

(i) Ganga and its tributaries;

(ii) Yamuna and its tributaries, and

(iii) Sarda and its tributaries,

shall, on the appointed day be the rights and liabilities of the successor States in such proportion as may be fixed and subject to such adjustments as may be made, by agreement entered into by the said States after consultation with the Central Government, or, if no such agreement is entered into within two years of the appointed day, then the Central

Government may by order determine within one year having regard to the purpose of the project:

Provided that the order so made by the Central Government may be varied by any subsequent agreement entered into by the successor States after consultation with the Central Government.

(2) An agreement or order referred to in sub-section (1) shall, where an extension or further development of any of the projects referred to in that sub-section after the appointed day is undertaken, be the rights and liabilities of the successor States in relation to such extension or further development.

(3) The rights and liabilities referred to in sub-sections (1) and (2) shall include,—

(a) the right to receive and utilise the water available for distribution as a result of the projects; and

(b) the right to receive and utilise the power generated as a result of the projects, but shall not include the rights and liabilities under any contract entered into before the appointed day by the Government of the existing State of Uttar Pradesh with any person or authority other than Government.

79.(1) The Central Government shall constitute a Board to be called the Ganga, Yamuna and Sarda Management Board (hereinafter referred to as the Board) for administration, construction, maintenance and operation of projects referred to in sub-section (1) of section 78 for any or for a combination of the following purposes, namely:—

(i) Irrigation;

(ii) Rural and Urban Water Supply;

(iii) Hydro Power generation;

(iv) Navigation; and

(v) for any other purpose which the Central Government may, by notification in the Official Gazette, specify.

(2) The Board shall consist of—

(a) a whole time Chairman and two whole time members to be appointed by the Central Government;

(b) a representative each of the Government of the States of Haryana, Himachal Pradesh, Rajasthan, Uttar Pradesh, Uttarakhand and the Union territory of Delhi to be nominated by the respective Governments;

(c) two representatives of the Central Government to be nominated by that Government.

(3) The functions of the Board shall include—

(a) the regulation of supply of water from the projects referred to in sub-section (1) of section 78 to States of Haryana, Himachal Pradesh, Rajasthan, Uttar Pradesh Uttarakhand and the Union territory of Delhi having regard to—

(i) any agreement entered into or arrangement made covering the Governments of existing State of Uttar Pradesh and the State of Haryana, Himachal Pradesh, Rajasthan and the Union territory of Delhi, and

(ii) the agreement or the order referred to in sub-section (2) of section 78;

(b) the regulation of supply of power generated at the projects referred to in sub-section (1) of section 77, to any Electricity Board or other authority in-charge of the distribution of power having regard to—

(i) any agreement entered into or arrangement made covering the Governments of existing State of Uttar Pradesh and the State of Haryana, Himachal Pradesh, Rajasthan and the Union territory of Delhi, and

(ii) the agreement or the order referred to in sub-section (2) of section 78;

(c) construction of such of the remaining or new works connected with the development of the water resource project relating to the rivers or their tributaries as the Central Government may specify by notification in the Official Gazette.

(d) such other functions as the Central Government may after consultation with the Governments of the States of Haryana, Himachal Pradesh, Rajasthan, Uttar Pradesh, Uttarakhand and the Union territory of Delhi entrust to it.

80. (1) The Board may employ such staff, as it may consider necessary for the efficient discharge of its functions under this Act:

Staff of the
Management
Board

Provided that every person who immediately before the constitution of the said Board was engaged in the construction, maintenance or operation of the works relating to the projects referred to in sub-section (1) of section 78 shall continue to be so employed under the Board in connection with the said works on the same terms and conditions of the service as were applicable to him before such constitution until the Central Government by order, directs otherwise:

Provided further that the said Board may at any time in consultation with the State Governments or the Electricity Board concerned and with prior approval of the Central Government retain any such person for service under that State Government or Board.

(2) The Government of the States of Haryana, Himachal Pradesh, Rajasthan, Uttar Pradesh, Uttarakhand and the Union territory of Delhi shall at all times provide the necessary funds to the Board to meet all expenses (including the salaries and allowances of the staff) required for the discharge of its functions and such amounts shall be apportioned among the States concerned in such proportion as the Central Government may having regard to the benefits to each of the said States specify.

(3) The Board shall be under the control of the Central Government and shall comply with such directions, as may from time to time, be given to it by that Government.

(4) The Board may, with the approval of the Central Government delegate such of its powers, functions and duties as it may deem fit to the Chairman of the said Board or to any officer subordinate to the Board.

(5) The Central Government may, for the purpose of enabling the Board to function efficiently, issue such directions to the State Governments concerned, or any other authority, and the State Governments, or the other authority shall comply with such directions.

81. (1) The Board shall, ordinarily exercise jurisdiction in regard to any of the projects referred to in sub-section (1) of section 78 over head work (barrages, dams, reservoirs, regulating construction), part of Canal network and transmission lines necessary to deliver water or power to the States concerned.

Jurisdiction of
the Board.

(2) if any question arises as to whether the Board has jurisdiction under sub-section (1) over any project referred thereto, the same shall be referred to the Central Government for decision thereon.

82. The Board may, with the prior approval of the Central Government, by notification in the official Gazette, make regulations consistent with the Act, to provide for—

Power of
Board to make
regulations.

(a) regulating the time and place of meetings of the Board and the procedure to be followed for the transaction of business at such meetings;

(b) delegation of powers and duties to the Chairman or any officer of the Board.

(c) the appointment and regulation of the conditions of service of the officers and other staff of the Board;

(d) any other matter for which regulations are considered necessary by the Board.

PART IX

LEGAL AND MISCELLANEOUS PROVISIONS

Amendment
of Act 37 of
1956.

83. On and from the appointed day, in section 15 of the States Reorganisation Act, 1956 in clause (b), for the words "Uttar Pradesh and Madhya Pradesh", the words "Uttar Pradesh, Uttarakhand and Madhya Pradesh" shall be substituted.

Territorial
extent of laws.

84. The provisions of Part II shall not be deemed to have affected any change in the territories to which the Uttar Pradesh Imposition of Ceiling of Land Holding Act, 1960 and any other law in force immediately before the appointed day, extends or applies, and territorial references in any such law to the State of Uttar Pradesh shall, until otherwise provided by a competent Legislature or other competent authority be construed as meaning the territories within the existing State of Uttar Pradesh before the appointed day.

(U P Act of
1960).

Power to adapt
laws.

85. For the purpose of facilitating the application in relation to the State of Uttar Pradesh or Uttarakhand of any law made before the appointed day, the appropriate Government may, before the expiration of two years from that day, by order, make such adaptations and modifications of the law, whether by way of repeal or amendment, as may be necessary or expedient, and thereupon every such law shall have effect subject to the adaptations and modifications so made until altered, repealed or amended by a competent Legislature or other competent authority.

Explanation.—In this section, the expression "appropriate Government" means as respects any law relating to a matter enumerated in the Union List, the Central Government, and as respects any other law in its application to a State, the State Government.

Power to
construe laws.

86. Notwithstanding that no provision or insufficient provision has been made under section 85 for the adaptation of a law made before the appointed day, any court, tribunal or authority, requirement or empowered to enforce such law may, for the purpose of facilitating its application in relation to the State of Uttar Pradesh or Uttarakhand, construe the law in such manner, without affecting the substance, as may be necessary or proper in regard to the matter before the court, tribunal or authority.

Power to name
authorities,
etc., for
exercising
statutory
functions.

87. The Government of the State of Uttarakhand, as respects the transferred territory may, by notification in the Official Gazette, specify the authority, officer or person who, on or after the appointed day, shall be competent to exercise such functions exercisable under any law in force on that day as may be mentioned in that notification and such law shall have effect accordingly.

Legal
proceedings.

88. Where, immediately before the appointed day, the existing State of Uttar Pradesh is a party to any legal proceedings with respect to any property, rights or liabilities subject to apportionment between the States of Uttar Pradesh and Uttarakhand under this Act, the State of Uttar Pradesh or Uttarakhand which succeeds to, or acquires a share in, that property or those rights or liabilities by virtue of any provision of this Act shall be deemed to be substituted for the existing State of Uttar Pradesh or added as a party to those proceedings, and the proceedings may continue accordingly.

Transfer of
pending
proceedings.

89. (1) Every proceeding pending immediately before the appointed day before a court (other than High Court), tribunal, authority or officer in any area which on that day falls within the State of Uttar Pradesh shall, if it is a proceeding relating exclusively to the territory, which as from that day are the territories of Uttarakhand State, stand transferred to the corresponding court, tribunal, authority or officer of that State.

(2) If any question arises as to whether any proceeding should stand transferred under sub-section (1), it shall be referred to the High Court of Uttar Pradesh and Uttarakhand and the decision of that High Court shall be final.

(3) In this section—

(a) "proceeding" includes any suit, case or appeal; and

(b) "corresponding court, tribunal, authority or officer" in the State of Uttarakhand means—

(i) the court, tribunal, authority or officer in which, or before whom, the proceedings would have laid if it had been instituted after the appointed day; or

(ii) in case of doubt, such court, tribunal, authority, or officer in that State, as may be determined after the appointed day by the Government of that State or the Central Government, as the case may be, or before the appointed day be the Government of the existing State of Uttar Pradesh to be the corresponding court, tribunal, authority or officer.

90. Any person who, immediately before the appointed day, is enrolled as a pleader entitled to practise in any subordinate courts in the existing State of Uttar Pradesh shall, for a period of one year from that day, continue to be entitled to practise in those courts, notwithstanding that the whole or any part of the territories within the jurisdiction of those courts has been transferred to the State of Uttarakhand.

Right of pleaders to practise in certain cases.

91. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law.

Effect of provisions of the Act inconsistent with other laws.

92. (1) If any difficulty arises in giving effect to the provisions of this Act the President may, by order, do anything not inconsistent with such provisions which appears to him to be necessary or expedient for the purpose of removing the difficulty :

Power to remove difficulties.

Provided that no such order shall be made after the expiry of a period of three years from the appointed day.

(2) Every order made under this section shall be laid before each House of Parliament.

THE FIRST SCHEDULE

(See section 8)

(i) Of the eleven sitting members whose term of office will expire on the 2nd April, 2000 namely, Shri Ish Dutt Yadav, Shri Janeshwar Mishra, Shri Jayant Kumar Malhotra, Shri Kanwer Jitendra Prasad, Shri Dara Singh Chauhan, Shri Raj Babbar, Shri Ram Nath Kovind, Shri Ram Vaksa, such one as the Chairman of the Council of the States may determine by drawing lot shall be deemed to have been elected to fill one of the seats allotted to the State of Uttarakhand and the other ten sitting members shall be deemed to have been elected to fill ten of the seats allotted to the State of Uttar Pradesh.

(ii) Of the eleven sitting members whose term of office will expire in November, 2002, namely, Shri Narendra Mohan, Shri Raj Nath Singh, Shri Chaudhry Chunni Lal, Shri Devi Prasad Singh, Shri Manohar Kant Dhyani, Shri Amar Singh, Shri Mohammad Azam Khan, Shri R.N. Arya, Shri Gandhi Azad, Shri Akilesh Chandra Das and Shri Balwant Singh Ramoowalia, Shri Manohar Kant Dhyani shall be deemed to have been elected to fill one seat out of three seats allocated in the Council of States to the State of Uttarakhand and the other ten sitting members shall be deemed to have been elected to fill ten of the seats allotted to the State of Uttar Pradesh.

(iii) Of the twelve sitting members whose term of office will expire in July, 2004, namely, Shri Arun Shourie, Shri T.N. Chaturvedi, Shri B.P. Singhal, Shri Dharam Pal Yadav, Shri Deena Nath Mishra, Shri Ram Gopal Yadav, Shri Kanshi Ram, Shri Sangh Priya Gautam, Shri Munavvar Hasan, Shri Khan Gufran Zahidi, Shri Syed Akhtar Hasan Rizvi, Shri Rama Shanker Kaushik, such one as the Chairman of the Council of States may determine by drawing lot shall be deemed to have been elected to fill one of the seats allotted to the State of Uttarakhand and the other eleven sitting members shall be deemed to have been elected to fill eleven of the seats allotted to the State of Uttar Pradesh.

THE SECOND SCHEDULE*(See section 10)***1. AMENDMENTS TO THE DELIMITATION OF PARLIAMENTARY AND
ASSEMBLY CONSTITUENCIES ORDER, 1976.**

**In SCHEDULE XXII to the Delimitation of Parliamentary and Assembly
Constituencies Order, 1976,—**

(1) in PART A — Parliamentary Constituencies,—

(a) serial numbers 1, 2, 3, 4 and 85 and entries relating thereto shall be omitted;

(b) in serial number 12 at the end, the following figures and word shall be inserted, namely :—

"56 — Baheri",

(2) in PART B — Assembly Constituencies,—

serial numbers 1 to 16 (both inclusive) and 420 to 425 (both inclusive) and the entries relating thereto shall be omitted.

THE THIRD SCHEDULE

*(See section 19)*MODIFICATION IN THE DELIMITATION OF COUNCIL
CONSTITUENCIES (UTTAR PRADESH) ORDER, 1951

In the Table appended to the said Order,—

- (1) under the sub-heading "Graduates' Constituencies", omit entry 1;
- (2) under the sub-heading "Teachers' Constituencies", omit entry 1;
- (3) under the sub-heading "Local Authorities Constituencies", omit entries 1, 2 and 3.

THE FOURTH SCHEDULE*(See section 20)*

List of members of the Legislative Council of Uttar Pradesh who shall cease to be such members on the appointed day and deemed to be the members of the Provisional Legislative Assembly :—

1. Shri Nitya Nand Swami.
2. Dr. Smt. Indira Hridayesh.
3. Shri Narayan Singh Rana
4. Shri Tirath Singh Rawat
5. Shri Sri Prakash Pant.
6. Shri Devendra Shaatri.

THE FIFTH SCHEDULE

(See section 24)

AMENDMENT OF THE CONSTITUTION (SCHEDULED CASTES) ORDER, 1950

In the Constitution (Scheduled Castes) Order, 1950, in the Schedule, after Part XXII, insert the following, namely :—

“PART XXIII — *Uttarakhand*

- | | |
|------------------------------------|----------------------------------|
| 1. Agariya | 34. Gharami |
| 2. Badhik | 35. Ghasiya |
| 3. Badi | 36. Gond |
| 4. Baheliya | 37. Gual |
| 5. Baiga | 38. Habura |
| 6. Baiswar | 39. Hari |
| 7. Bajaniya | 40. Hela |
| 8. Bajgi | 41. Kalabaz |
| 9. Balahar | 42. Kanjar |
| 10. Balai | 43. Kapariya |
| 11. Balmiki | 44. Karwal |
| 12. Bangali | 45. Khairaha |
| 13. Banmanus | 46. Kharwar (excluding Benbansi) |
| 14. Bansphor | 47. Khatik |
| 15. Barwar | 48. Khorot |
| 16. Basor | 49. Kol |
| 17. Bawariya | 50. Kori |
| 18. Beldar | 51. Korwa |
| 19. Beriya | 52. Lalbegi |
| 20. Bhantu | 53. Majhwar |
| 21. Bhuiya | 54. Mazhabi |
| 22. Bhuyiar | 55. Musahar |
| 23. Boria | 56. Nat |
| 24. Chamar, Dhusia, Jhusia, Jatava | 57. Pankha |
| 25. Chero | 58. Parahiya |
| 26. Dabgar | 59. Pasi, Tarmali |
| 27. Dhangar | 60. Patari |
| 28. Dhanuk | 61. Rawat |
| 29. Dharkar | 62. Saharya |
| 30. Dhobi | 63. Sanaurhiya |
| 31. Dom | 64. Sansiya |
| 32. Domar | 65. Shilpkar |
| 33. Dusadh | 66. Turaiha.” |

THE SIXTH SCHEDULE*(See section 25)***AMENDMENT TO THE CONSTITUTION (SCHEDULED TRIBES) ORDER, 1950**

In the Constitution (Scheduled Tribes) Order, 1950,—

(1) in paragraph, for the figures "XIX", the figures "XX" shall be substituted;

(2) in the Schedule, after Part XIX, the following Part shall be inserted, namely:—

"PART XX—UTTARAKHAND

1. Bhotia.
2. Buksa.
3. Jannsari.
4. Raji.
5. Tharu."

THE SEVENTH SCHEDULE

(See section 46)

List of Funds

1. Depreciation Reserve Fund — Irrigation.
2. Depreciation Reserve Fund — Government Press.
3. Depreciation Reserve Fund — Precision Instrument Factory.
4. Rural Development Fund.
5. Famine Relief fund.
6. Zamindari Abolition Fund.
7. Sugar Research and Labour Housing Fund.
8. Uttar Pradesh Road Fund.
9. Chikitsa Nidhi.
10. Teachers Gratuity Fund.
11. State Bridge Fund.
12. General Insurance Fund.
13. Nazul Nidhi.
14. State Cooperative Development Fund.
15. Agriculture Credit and Security Fund.
16. Kisan Sahayata Nidhi.
17. Cost Depreciation Fund.
18. Contingency Reserve Fund.
19. Uttar Pradesh Sugar Factory Rehabilitation, Modernisation and Establishment Fund.
20. Uttar Pradesh Sugar Cane Research and Development Fund.
21. Consolidated Sinking Fund for State Development Loans and Zamindari Abolition Compensation Bonds.
22. Uttar Pradesh Police Housing Fund.
23. Uttar Pradesh Fourth Class Housing Fund.
24. Balanced Area Development Fund.
25. Uttar Pradesh Government Servants Housing Fund.
26. Students Welfare Fund.
27. Youth Welfare Fund.
28. Uttar Pradesh Language Fund.
29. Police Welfare Fund.
30. Acharya Narendra Dev Nidhi.
31. Production and Modernisation of Sick Industrial Units Fund.
32. Purvanchal Vikas Nidhi.
33. Bundelkhand Vikas Nidhi.
34. Calamity Relief Fund.
35. Fund for Payment of Cane dues.
36. Secretariat Fund.
37. Depreciation Reserve Fund — Electricity.
38. Contingency Reserve Fund — Electricity.
39. Government Servant Insurance Fund.
40. General Provident Fund.

THE EIGHTH SCHEDULE

(See section 53)

APPORTIONMENT OF LIABILITY IN RESPECT OF PENSIONS

1. Subject to the adjustments mentioned in paragraph 3, each of the successor States shall, in respect of pensions granted before the appointed day by the existing State of Uttar Pradesh, pay the pensions drawn in its treasuries.

2. Subject to the said adjustments, the liability in respect of pensions of officers serving in connection with the affairs of the existing State of Uttar Pradesh who retire or proceed on leave preparatory to retirement before the appointed day, but whose claims for pensions are outstanding immediately before that day, shall be the liability of the State of Uttar Pradesh.

3. There shall be computed, in respect of the period commencing on the appointed day and ending on the 31st day of March, 1998, and in respect of each subsequent financial year, the total payments made in all the successor States in respect of pensions referred to in paragraphs 1 and 2. That total representing the liability of the existing State of Uttar Pradesh in respect of pensions shall be apportioned between the successor States in the population ratio and any successor State paying the State paying more than its due share shall be reimbursed the excess amount by the successor State or State paying less.

4. The liability of the existing State of Uttar Pradesh in respect of pensions granted before the appointed day and drawn in any area outside the territories of the existing State shall be the liability of the State of Uttar Pradesh subject to adjustments to be made in accordance with paragraph 3 as if such pensions had been drawn in any treasury in the State of Uttar Pradesh under paragraph 1.

5. (1) The liability in respect of the pension of any officer serving immediately before the appointed day in connection with the affairs of the existing State of Uttar Pradesh and retiring on or after that day, shall be that of the successor State granting him the pension; but the portion of the pension attributable to the service of any such officer before the appointed day in connection with the affairs of the existing State of Uttar Pradesh shall be allocated between the successor States in the population ratio, and the Government granting the pension shall be entitled to receive from each of the other successor States its share of this liability.

(2) If any such officer was serving after the appointed day in connection with the affairs of more than one successor State other than the one granting the pension shall reimburse to the Government by which the pension is granted an amount which bears to the portion of the pension attributable to his service after the appointed day the same ratio as the period of his qualifying service after the appointed day under the reimbursing State bears to the total qualifying service of such officer after the appointed day reckoned for the purposes of pension.

6. Any reference in this Schedule to a pension shall be construed as including a reference to the commuted value of the pension.

THE NINTH SCHEDULE

(See section 65)

LIST OF GOVERNMENT COMPANIES

Sl. No.	Name of Government company	Address
1.	Uttar Pradesh Bhumi Sudhar Nigam Limited	Picup Bhawan, Gomti Nagar, Lucknow.
2.	Uttar Pradesh State Agro Industrial Corporation.	Vidhan Sabha Marg, Lucknow.
3.	Uttar Pradesh Alp Sankhyak Vittiya Nigam	7th Floor, Jawahar Bhawan, Lucknow.
4.	Uttar Pradesh Electronics Corporation.	Ashok Marg, Lucknow.
5.	Uttar Pradesh Laghu Jal Vidyut Nigam.	Vikas Deep, Lucknow.
6.	Uttar Pradesh State Vidyut Utpadan Nigam.	4B-Gokhle Marg, Lucknow.
7.	Uttar Pradesh State Leather Development Corporation.	16/58A-Sadar, Agra.
8.	Uttar Pradesh Export Corporation.	B-27, Sarodayanagar, Kanpur.
9.	Uttar Pradesh State Food and Essential Commodities Corporation.	17, Gokhle Marg, Lucknow.
10.	Uttar Pradesh Small Industries Corporation.	110- Industrial Estate, Kanpur.
11.	Uttar Pradesh State Handloom Corporation.	Hathkargha Bhawan, G.T. Road, Kanpur.
12.	Uttar Pradesh Police Avas Nigam.	Vijay Khand II-Gomti Nagar.
13.	Provincial Industrial Investment Corporation of Uttar Pradesh	Picup Bhawan, Gomti Nagar, Lucknow.
14.	The Indian Turpentine and Rosin Company	Clutterbuck Ganj, Bareilly.
15.	Uttar Pradesh Cement Corporation	Churk Sonbhadra.
16.	Uttar Pradesh State Mineral Development Corporation.	Kapoorthala Complex, Aliganj, Lucknow.
17.	Uttar Pradesh State Textile Corporation	Vastra Bhawan, Sharda Nagar, Kanpur.
18.	Uttar Pradesh Small Industries Development Corporation.	Lakhanpur P.B. No.-13, Kanpur.
19.	Uttar Pradesh Project and Tubewells Corporation Limited.	Gomti Barrage, Gomti Nagar, Lucknow.
20.	Uttar Pradesh Mahila Kalyan Nigam	Ashok Marg, Lucknow.
21.	Uttar Pradesh Matsya Vikas Nigam	Vivek Khand, Gomti Nagar, Lucknow.
22.	Uttar Pradesh Panchayatiraj Vitta Nigam	B-77, Nirala Nagar, Lucknow.
23.	Uttar Pradesh Pashudhan Udyog Nigam	Central Dairy Farm, Aligarh.
24.	Uttar Pradesh Poultry and Livestock Spec. Limited.	Campus Animal Husbandary, Lucknow.
25.	Uttar Pradesh Pichri Jati Vitta Vikas Nigam	P.C.F. Building Stn. Road, Lucknow.
26.	Uttar Pradesh Development System Corporation.	Sarojini Naidu Marg, Lucknow.
27.	Uttar Pradesh State Bridge Corporation.	M.M.M. Marg, Lucknow.
28.	Uttar Pradesh Rajkiya Nirman Nigam	Vishesharia Bhawan, Gomti Nagar, Lucknow.
29.	Uttar Pradesh Anusuchit Jati/Janjati Vikas Nigam	Sector-C, Mahanagar Limited.
30.	Uttar Pradesh Samaj Kalyan Nirman Nigam	Lekhraj Market, Indira Nagar, Lucknow.
31.	Uttar Pradesh Bhutpurva Sainik Kalyan Nigam	541-Jopling Road, Lucknow.
32.	Uttar Pradesh Madhya Ganna Beej Vikas Nigam	Sector-20, Indira Nagar, Lucknow.
33.	Uttar Pradesh Pashchim Ganna Beej Vikas Nigam	Civil Lines, Muzaffar Nagar.
34.	Uttar Pradesh Poorva Ganna Beej Vikas Nigam	Acharya Ram C. Shukla Nagar, Deoria.

Sl. No.	Name of Government company	Address
35.	Rohilkhand Tarai Ganna Beej Nigam	B.D.A. Colony, Bareilly
36.	Uttar Pradesh State Sugar Corporation.	5-Mira Bai Marg, Lucknow.
37.	Uttar Pradesh State Tourism Corporation.	Tehri Kothi River Bank Road, Lucknow.
38.	Garhwal Mandal Vikas Nigam	74/1, Rajpur Road, Dehradun.
39.	Kumaon Mandal Vikas Nigam	Oak Park, Malli Tal, Nainital.
40.	Uttar Pradesh Hill Electronics Corporation.	Viswas Khand-2, Gomti Nagar, Lucknow.
41.	Uttar Pradesh Wage Vikas Nigam	118-Jawahar Bhawan, Lucknow.
42.	Uttar Pradesh Seeds and Tarai Development Corporation.	Pant Nagar, Udham Singh Nagar.

THE TENTH SCHEDULE

(See section 70)

CONTINUANCE OF FACILITIES IN CERTAIN STATE INSTITUTIONS

List of Training Institutions/Centres

1. Uttar Pradesh Academy of Administration, Nainital.
2. Institute of Management Development, Uttar Pradesh, Lucknow.
3. Institute for Judicial Training and Research, Lucknow.
4. Police Training Academy - I, Moradabad.
5. Police Training Academy - II, Moradabad.
6. Police Training Academy - III, Gorakhpur.
7. Armed Training Centre, Sitapur.
8. Police Training, College, Moradabad.
9. Police Training, College, Gorakhpur.
10. Recruit Training, Centre, Chunar, Mirzapur.
11. State Fire Services Training College, Unnav.
12. Sampurnanand Jail Training College, Lucknow.
13. Secretariat Training and Management, Lucknow.
14. Raja Todarmal Survey and Land Records Training Institute, Hardoi.
15. Consolidation Training College, Faizabad.
16. State Engineers Training Institute, Kalagarh.
17. Water and Land Training Institute, New Delhi.
18. Finance and Accounts Training Institute, Lucknow.
19. Cooperative and Panchayat Auditor Training Centre, Faizabad.
20. Local Fund Examiner Training Institute, Allahabad.
21. Sales Tax Officers Training Institute, Lucknow.
22. State Electricity Board Training Institute, Dehradun.
23. Uttar Pradesh State Electricity Board Staff College, Dehradun.
24. Thermal Training Institute, UPSEB, Obra, Sobebhadra.
25. Central Civil Defence Training Institute, Lucknow.
26. Deen Dayal Upadhyay Rural Development Training and Research Institute, Bakshi Ka Talab, Lucknow.
27. Minor Irrigation and Water Use Training Centre, Bakshi Ka Talab, Lucknow.
28. Smt. Indira Gandhi Cooperative Training Academy, Lucknow.
29. Cooperative Training Academy, Dehradun.
30. Agriculture Cooperative Training Institute, Lucknow.
31. Cooperative and Corporate Management Research and Training Institute, Indira Nagar, Lucknow.
32. Cane Development Institute, Lucknow.
33. Uttar Pradesh State Road Transport Corporation Training Institute, Kanpur.
34. Uttar Pradesh State Educational Research and Training Board, Allahabad.
35. Scheduled Caste and Scheduled Tribe Research and Training Institute, Lucknow.
36. Hotel Management and Catering Institute, Dehradun.
37. Research Development and Training Institute, Kanpur.
38. Uttar Pradesh Excise Training Institute, Raibareli.
39. Central Labour Education Board, Kanpur.
40. State Health and Family Welfare Institute, Uttar Pradesh, Lucknow.

STATEMENT OF OBJECTS AND REASONS

In his address delivered to Parliament on 25th March, 1998, the President announced that the Government was committed to initiate action to carve out State of Uttarakhand out of the existing State of Uttar Pradesh. The Bill seeks to give effect to that commitment and aims at reconstituting the existing State of Bihar into two separate States.

2. The Bill provides for the territories of the two States and makes necessary supplemental and incidental provisions relating to representation in Parliament and in the State Legislatures of distribution of revenues, apportionment of assets and liabilities, management and development of water resources and other matters.

3. While taking the decision to carve out a separate State of Uttarakhand out of the existing State of Uttar Pradesh, the Government has also decided that a dedicated Unit shall be set up in the Planning Commission under the direct charge of the Deputy Chairman, Planning Commission, to deal exclusively with the matters relating to the rest of Bihar consequent upon formation of the State of Uttarakhand. This Unit will, *inter alia*, ensure that, with the help of better financial management and adequate devolution of funds from the Centre, multifaceted development of the region takes place, especially with respect to core infrastructure.

4. The proposed reorganisation of the existing State of Uttar Pradesh will meet the democratic aspirations of the people of the State of Uttarakhand.

L.K. ADVANI.

NEW DELHI;

The 11th December, 1998

Notes on Clauses

Clause 2 Sub-Clause (h)—According to 1991 census, the population of the existing State of Uttar Pradesh is 1391.12 lakhs, the population of residuary State of Uttar Pradesh is about 1320.62 lakhs and that of Uttarakhand is 70.50 lakhs. The population ratio between the States has been ascertained on that basis.

Clause 3 Provides for the formation of the new State of Uttarakhand by transfer thereto from the existing State of Uttar Pradesh of 13 districts.

Clause 5 seeks to make certain consequential amendments in the First Schedule to the Constitution.

Clause 6 expressly saves the power of the State Government to alter thereafter the name of any district or other territorial division in the State.

Clauses 7 and 8 deal with the representation of Uttar Pradesh and Uttarakhand in the Council of State (Rajya Sabha). At present there are 34 Members representing the existing State of Uttar Pradesh in Rajya Sabha. Since Himachal Pradesh has 3 seats and has more or less similar population as that of the proposed new State of Uttarakhand, it is proposed that 3 out of 34 seats may be allocated to Uttarakhand. There is, at present only one member representing the Uttarakhand region. This member alongwith two more members from the remaining members (to be decided as prescribed in the First Schedule) will be deemed to have been allocated to Uttarakhand.

Clauses 9 and 11 deal with the representation of successor States Uttar Pradesh and Uttarakhand in the House of People. There are at present 85 Members representing the existing State of Uttar Pradesh in the House of People. The number of seats proposed to be allocated to Uttarakhand is 5 and the remaining members will continue to represent the State of Uttar Pradesh. The allocation of seats has been based on the territorial allocation of the constituencies concerned. The consequential amendments have been made in the First Schedule to the Representation of Peoples Act.

Clause 10 seeks to make modifications in the First Schedule to the Delimitation of Parliamentary and Assembly Constituencies Order, 1976 in view of the formation of the new State of Uttarakhand and the transfer of certain territories from the existing State of Uttar Pradesh. It may be mentioned here that 4 out of the 5 constituencies totally lie within the proposed territory of Uttarakhand while in the case of one Parliamentary constituency, namely Nainital, one Assembly Segment of Baheri, lies outside the territorial extent of the proposed new State.

Clauses 12 and 13: At present there are 425 elected members in the Legislative Assembly of Uttar Pradesh and one member is nominated under article 333 of the Constitution. Out of 425 members, 403 members have been allotted to the residuary State of Uttar Pradesh and 22 members to the successor State of Uttarakhand. The nominated member may be deemed to have been nominated member of the Legislative Assembly of Uttar Pradesh.

The allocation of seats in this case also have been based on the territorial location of the constituencies concerned. Necessary consequential amendments have been made in the Second Schedule to the Representation of the People Act, 1956.

Clause 12 read with the Fourth Schedule provides for the necessary adjustments in the assembly constituencies in both the States.

Clause 14 The Uttarakhand Assembly as on the appointment day would have 22 elected members of the Legislative Assembly and 6 members of Legislative Council of existing State of Uttar Pradesh, making the total membership as 28. This number is not sufficient for effective governance as also that the article 170 of the Constitution provides for a minimum number of 60 MLAs. Hence it is proposed that this Assembly as it come into being on the appointed day would be treated as "Provisional". The term of office of

this provisional Legislative Assembly would expire immediately before the first meeting of the 60 member Legislative Assembly or one year from the date of the first sitting of the Provisional Legislative Assembly, whichever is earlier. It is felt that one year period should be sufficient for carrying out delimitation and holding elections.

Clauses 15 to 17 give the duration of the Legislative Assembly of Uttar Pradesh, provision regarding Speaker, Deputy Speaker of Uttarakhand and rules of procedure to be adopted for conduct of business of the Assembly.

Clauses 18 to 21 deal with the Legislative Council of Uttar Pradesh. At present there are 108 members in that Council. It is proposed not to have any Legislative Council in the State of Uttarakhand and the strength of the Legislative Council of Uttar Pradesh has been reduced from 108 to 102.

There are five members in the Legislative Council representing graduates' constituency, teachers' constituency and local authorities' constituencies located wholly in Uttarakhand. These constituencies have been specified in the Third Schedule. It is proposed that members representing such constituencies should cease to be members of that Council. The remaining 102 members would continue as such till expiry of their term in Uttar Pradesh Legislative Council.

Necessary consequential amendments have been made in the Third Schedule to the Representation of the People Act, 1950.

Clauses 22 and 23 are meant to empower the Election Commission to determine the reservation status of Assembly seats and the adjustments in boundaries and description of the extent of parliamentary constituencies in both successor States.

Clauses 24 and 25 In view of the territorial changes brought about by the formation of the new State of Uttarakhand certain amendments are necessary in the Constitution (Scheduled Castes) Order, 1960, and the Constitution (Scheduled Tribes) Order, 1960. The necessary modifications have been set out in the Fifth and Sixth Schedules.

Clauses 26 to 37 deal with the provisions for a common High Court for the States of Uttar Pradesh and Uttarakhand, its powers and functions, jurisdiction and the practice and procedure to be followed by it. These *Clauses* also empower the President of India and the Chief Justice of the High Court to establish permanent and Circuit Benches respectively of the High Court. The detailed provisions contained in these *Clauses* follow the main provisions made in the States Reorganisation Act, 1956 and the Punjab Reorganisation Act, 1966.

Clause 38 In order that the administration of the new State of Uttarakhand can be carried on until the Legislature of that State has sanctioned expenditure from the Consolidated Fund of that State, and passed the necessary Appropriation Act, provision has been made in this *Clause* for the Governor of Uttar Pradesh to authorise at any time before the appointed day such expenditure as he thinks necessary for a period of six months from that date a similar power is conferred on the Governor of Uttarakhand after the appointed day.

Clause 39 contains the usual provision that the reports of the Comptroller and Auditor-General of India for any period prior to the appointed day should be submitted to the Governors of Uttar Pradesh and Uttarakhand and empowers the President to take such further action as may be appropriate under the circumstances.

Clause 40 seeks to empower the President to determine the share of the States of Uttar Pradesh and Uttarakhand in the total amount payable to the existing State of Uttar Pradesh on the recommendations of the Finance Commission constituted under article 280 of the Constitution, in such manner as he thinks fit.

Clauses 41 to 61 relate to apportionment of assets and liabilities of the State of Uttar Pradesh among the successor States and are guided by the following principles:—

- (i) Going by natural, cardinal principles of succession, all the assets and liabilities should be apportioned in the ratio of population. The particular assets and liabilities to be transferred should be identified on considerations of nexus, proximity

and expediency. Consistent with the requirement that the successor States should have full and mutually exclusive executive/legislative control on all subjects having a direct territorial nexus with their territories, all the physical assets and liabilities, may not be suitable for allocation of financial assets and liabilities which should preferably be allocated by overall valuation and apportionment on the basis of population ration. Further, the financial assets in the nature of rights to receive moneys (whether by way of arrears of tax or non-tax revenue or by way or recovery of loans) are to be apportioned on considerations of territorial nexus with the persons from whom the moneys are receivable. Other assets and liabilities may be apportioned primarily on the basis of territorial nexus, failing which on the basis of population

(ii) The apportionment of assets and liabilities would be subject to such financial adjustment as may be necessary to secure just, reasonable and equitable apportionment of assets and liabilities amongst the successor States.

(iii) It has been provided in clause 46(2) that the State of Uttar Pradesh shall contribute a sum of Rs. 50 crores towards the cost of construction of the capital of Uttarakhand. The successor State of Uttar Pradesh will be having the same capital. However the successor State of Uttarakhand will have to establish its capital. Under similar circumstances, at the time of reorganisation of Bombay State, a provision was made for contributing Rs. 10 crores by Bombay State towards cost of construction of capital of proposed State of Gujarat.

(iv) All liabilities on account of Public Debt and public account of the existing State of Uttar Pradesh outstanding immediately before the appointed day shall be apportioned in the ratio of population of the successor States unless a different mode of apportionment is adopted under specific provisions of this Act. The individual items of liabilities to be allocated to the successor States and the amount of contribution required to be made by one successor State to another shall be such as may be ordered by the Central Government in consultation with the Comptroller & Auditor General of India. Till such orders are issued, the liabilities on account of Public Debt and Public Account of the existing State of Uttar Pradesh shall continue to be the liabilities of the successor State of Uttar Pradesh. As an exception, the liability on account of loans raised and re-lent by the predecessor Government to such entities as are notified by the Central Government and whose area of operation is confined to either of the successor States would devolve on the respective States.

(v) Any dispute regarding the amount of financial assets and liabilities shall be settled through mutual agreement, failing which by order by Central Government on the advice of the C & AG of India.

(vi) The outstanding Public Debt attributable to loans raised by the issue of Government securities and held by (General) public is sought to be retained in the books of Uttar Pradesh (successor) and Uttarakhand is expected to contribute its share of servicing and repayment of the debt. The outstanding Public Debt attributable to loans received from Central Government agencies and re-lent to other bodies in the State is sought to be allocated on the basis of ultimate borrowers.

(vii) Subject to legislation by competent legislature, the successor States would be entitled to receive benefits arising out of the decisions taken by the predecessor State and the successor States would be liable to bear the responsibilities and liabilities arising out of the decisions taken by the predecessor State.

(viii) The liability of paying Retirement Benefits and Provident Fund balances to employees should be allocated on the basis of permanent allocation of the government servants.

(ix) Contractual liabilities other than those of loans, guarantees, bank balances, securities and other financial obligations are sought to be allocated on the basis of the exclusive purpose of the contract or through agreement.

(x) The right to recovery of loans and taxes would vest in the State according to the principal place of business/occupation of the loanee of assessee. The liabilities to refund any tax or duty on property including land revenue as also the right to collect arrears of tax or duty on property including land revenue would be allocated on the basis of the location of the taxed property.

(xi) Items lying in suspense which are ultimately found to affect assets or liabilities may be dealt with according to the allocation of that asset/liability.

(xii) The liability on account of loans raised from any source and re-lent by the existing State of Uttar Pradesh to such entities as are notified by the Central Government and whose area of operation is confined to either of the successor States shall devolve on the respective States as detailed in sub-section.

(xiii) The balances in the Reserve Funds in the Public Account of Uttar Pradesh created wholly out of appropriations from the Consolidated Fund of Uttar Pradesh, to the extent the balances have not been invested outside Government account should not be carried forward to similar Reserve Funds in the Public Account of Uttar Pradesh and uttarakhand. The securities held in respect of investments made from Cash Balance Investment Account or from any Fund in the Public Account of Uttar Pradesh shall be apportioned in the ratio of population of the successor States.

Clause 62 enables the Uttar Pradesh State Electricity Board and the Uttar Pradesh State Warehousing Corporation to continue to function in the same areas as at present, even after the formation of the State of uttarakhand, i.e. the appointed day. As and when the State of Uttarakhnad and the residuary State of Uttar Pradesh set up their own Electricity Boards and warehousing corporations, The existing board and corporation will be dissolved and their assets and liabilities shall be transferred to the corresponding new boards and corporations in a manner specified in the Act.

Clause 63 empowers the Central Government to give direction to the State Government or other Authority concerned to ensure continuance of arrangements of supply of electric power and supply of water.

Clause 64 contemplates that the existing Uttar Pradesh State Financial Corporation will continue to function in the same areas as at present, even after the appointed day, until a scheme is framed in this behalf for the reconstitution, reorganisation or dissolution of the corporation, including proposals regarding the formation of new corporations and transfer thereto of all the assets, rights and liabilities of the existing corporation. Such a scheme has to be approved at a general meeting of all the shareholders and sanctioned by the Central Government. In case of disagreement, the matter has to be referred to a judge of the High Court of uttar pradesh and Uttarakhnad whose decision thereon shall be final.

Clause 65 provides for continuance of functioning on and from the appointed day of Companies specified in the Ninth Schedule, in the areas in which they were functioning before the appointed day and until otherwise provided for in any law, or in any agreement among successor States or in any direction of the Central Government including those for division of interests and shares in the Companies between successor States, or reconstitution of the Board of Directors so as to ensure adequate representation to go to the High Court for reconstitution of companies as otherwise required under the Companies Act, 1956.

Clause 66 specified that in case any body corporate becomes an inter-State Corporate body, the same shall continue to function and operate subject to directions as may be issued by the Central Government, until other provision is made by law in respect of the said body corporate.

Clause 67 protects the rights of existing road transport permit holders. Any permit holder of undivided Uttar Pradesh would not be required to again get it countersigned by the State Transport Authority of the successor States for use within the validity period. However, Central Government can give directions in this regard, if necessary.

Clause 68 contemplates that in case terms & conditions of service of an existing workman do not change to his disadvantage in the event of his absorption in any State organisation consequent to reorganisation, he would not be entitled to any compensation under the Industrial Dispute Act, 1947.

Clause 69 Under section 24 of the Income Tax Act, 1924, an assessee who sustains a loss of profits or gains is entitled to have the amount of loss set off against his income under certain circumstances. It is proposed to extend the benefit of this section to a body corporate to which the assets, rights and liabilities of any existing body corporate, including any loss sustained by it, are transferred under the provisions of Part VII.

Clause 70 provides that facilities in certain State Institutions as listed in the Tenth Schedule will continue to be available to both the successor States for such period as may be agreed upon between the two State Governments before a prescribed date.

Clauses 71 to 77 make provisions relating to Services. *Clause 71* provides for creation of two separate cadres for the State of Uttar Pradesh and the new State of Uttarakhand for the Indian Administrative Service, Indian Police Service and Indian Forest Service, in place of the existing cadre of Uttar Pradesh in respect of these three services. It also confers power on the Central Government to determine the strength and composition of a new cadres and allocated individual officers thereto in consultation with the State Governments concerned. *Clauses 72 to 74* provide for allocation of officers serving under the Government of Uttar Pradesh between the States of Uttar Pradesh and Uttarakhand.

These clauses generally follow the corresponding provisions of the States Reorganisation Act, 1956.

Clauses 78 to 81 deal with the important issue of management and development of water resources. Ganga and Yamuna are inter-State rivers with Himachal Pradesh, Uttar Pradesh, Haryana, Rajasthan, Bihar, Madhya Pradesh, West Bengal and National Capital region of Delhi as co-basin States. After creation of Uttarakhand, this State would also be a vital co-basin State. Similarly, Sharda river would not only become an inter-State river body after creation of Uttarakhand but also part of catchment lying in Nepal, already makes it an international river in character. Considering the present and on-going projects and also the future potential of these rivers, it has been proposed that the Central Government shall constitute a Board to be called the Ganga Yamuna and Sharda Management Board for purposes as listed in clause 79 and generally on the pattern of Bhakra Beas Management Board. This clause also gives the constitution, functions, membership of the Board. *Clause 80* indicates the staffing pattern and the apportionment of expenses between partner States. *Clause 81* prescribes the jurisdiction of the Board and *clause 82* empowers the Board to make regulations consistent with the Act and Rules thereunder, with the prior approval of the Central Government etc.

Clauses 83 to 92 are of miscellaneous and legal nature and they generally follow the corresponding provisions of the States Reorganisation Act, 1956. However, *clause 84* has been specifically redrafted to provide for continuance of the present level of ceilings on land holdings, as applicable in the existing State of Uttar Pradesh in the successor States also.

FINANCIAL MEMORANDUM

Clause 39 of the Bill, which deals with distribution of revenues, provides that the President shall, by order determine the share of the States of Uttar Pradesh and the State of Uttarakhand in the total amount payable to the existing State of Uttar Pradesh on the recommendation of a Finance Commission constituted under article 280 of the Constitution of India, in such manner as he thinks fit. Leaving aside some marginal increase in the administrative expenditure of the departments and agencies of the Central Government in connection with the implementation of the proposed legislation, no additional expenditure will be involved from the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 39 of the Bill empowers the President to determine, by order, the share of the State of Uttar Pradesh and the State of Uttarakhand in the total amount payable to the existing State of Uttar Pradesh on the recommendation of a Finance Commission constituted under article 280 of the Constitution of India, in such manner as he thinks fit.

2. Clause 84 of the Bill provides that, for the purpose of facilitating the application in relation to the State of Uttar Pradesh or the State of Uttarakhand of any law made before the appointed day, the appropriate Government may, before the expiration of two years from that day, by order, make such adaptations and modifications of the law, whether by way of repeal or amendment, as may be necessary or expedient, and thereupon every such law shall have effect subject to the adaptations and modifications so made until altered, repealed or amended by a competent Legislature or other competent authority.

3. Clause 85 of the Bill deals with the power to construe laws. Clause 86 of the Bill deals with the power to name authorities, etc. for exercising statutory functions.

4. Similar provisions exist in other State Reorganisation Acts passed by Parliament earlier. These provisions are mainly of a consequential nature or pertain to matters of detail and procedure. As such, the proposed delegation of legislative power is of a normal character.

BILL NO. 172 OF 1998

A Bill to provide for the reorganisation of the existing State of Madhya Pradesh and for matters connected therewith.

BE it enacted by Parliament in the Forty-ninth Year of the Republic of India as follows:—

PART I

PRELIMINARY

1. This Act may be called the Madhya Pradesh Reorganisation Act, 1998.

Short title.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "appointed day" means the day which the Central Government may, by notification in the Official Gazette, appoint;

(b) "article" means an article of the Constitution;

(c) "assembly constituency", "council constituency" and "parliamentary constituency" have the same meanings as in the Representation of the People Act, 1950;

(d) "Election Commission" means the Election Commission appointed by the President under article 324;

(e) "existing State of Madhya Pradesh" means the State of Madhya Pradesh as existing immediately before the appointed day;

(f) "law" includes any enactment, ordinance, regulation, order, bye-law, rule, scheme, notification or other instrument having, immediately before the appointed day, the force of law in the whole or in any part of the existing State of Madhya Pradesh;

(g) "notified order" means an order published in the Official Gazette;

(h) "population ratio" in relation to the States of Madhya Pradesh and Chhattisgarh means the ratio of 48566:17615;

(i) "sitting member", in relation to either House of Parliament or of the Legislature of the existing State of Madhya Pradesh means a person who immediately before the appointed day, is a member of that House;

(j) "successor State", in relation to the existing State of Madhya Pradesh means the State of Madhya Pradesh or Chhattisgarh;

(k) "transferred territory" means the territory which on the appointed day is transferred from the existing State of Madhya Pradesh to the State of Chhattisgarh;

(l) "treasury" includes a sub-treasury; and

(m) any reference to a district, tehsil or other territorial division of the existing State of Madhya Pradesh shall be construed as a reference to the area comprised within that territorial division on the appointed day;

PART II

REORGANISATION OF THE STATE OF MADHYA PRADESH

Formation of
Chhattisgarh
State.

3. On and from the appointed day, there shall be formed a new State to be known as the State of Chhattisgarh comprising the following territories of the existing State of Madhya Pradesh, namely:—

Bastar, Bilaspur, Dantewada Dhamtari, Durg, Janjgir-Champa, Jashpur, Kanker, Kawardha, Korba, Koriya, Mahasamund, Raigarh, Raipur, Rajnandgaon and Surguja districts,

and thereupon the said territories shall cease to form part of the existing State of Madhya Pradesh.

State of
Madhya
Pradesh and
territorial
divisions
thereof.

4. On and from the appointed day, the State of Madhya Pradesh shall comprise the territories of the existing State of Madhya Pradesh other than those specified in section 3.

Amendment
of the First
Schedule
to the
Constitution.

5. On and from the appointed day, in the First Schedule to the Constitution, under the heading "I. THE STATES",—

(a) in the paragraph relating to the territories of the State of Madhya Pradesh, after the words, brackets and figures "the Rajasthan and Madhya Pradesh (Transfer of Territories) Act, 1959," the following shall be added namely:—

47 of 1959.

"and the territories specified in section 3 of the Madhya Pradesh Reorganisation Act, 1998.";

(b) after entry 25, the following entry shall be inserted, namely:—

"26. Chhattisgarh: The territories specified in section 3 of the Madhya Pradesh Reorganisation Act, 1998."

Saving powers
of State
Government.

6. Nothing in the foregoing provisions of this Part shall be deemed to affect the power of the Government of Madhya Pradesh of Chhattisgarh to alter, after the appointed day, the name, area or boundaries of any district or other territorial division in the State.

PART III

REPRESENTATION IN THE LEGISLATURES

The Council of States

7. On and from the appointed day, in the fourth Schedule to the Constitution, in the Table,—

Amendment of the Fourth Schedule to the Constitution.

(a) entries 9 to 27 shall be renumbered as entries 10 to 28 respectively;

(b) in entry 8, for the figures "16", the figures "11" shall be substituted;

(c) after entry 8, the following entry shall be inserted, namely:—

"9. Chhattisgarh 5."

8. (1) On and from the appointed day, the sixteen sitting members of the Council of States representing the existing State of Madhya Pradesh shall be deemed to have been elected to fill the seats allotted to the States of Madhya Pradesh and Chhattisgarh, as specified in the First Schedule.

Allocation of sitting members.

(2) The term of office of such sitting members shall remain unaltered.

The House of the People

9. On and from the appointed day, there shall be allocated 29 seats to the successor State of Madhya Pradesh, and 11 to the successor State of Chhattisgarh, in the House of the People, and the first Schedule to the Representation of the People Act, 1950 shall be deemed to be amended accordingly.

Representation in the House of the People.

10. On and from the appointed day, the Delimitation of Parliamentary and Assembly Constituencies Order, 1976 shall stand amended as directed in the Second Schedule.

Delimitation of Parliamentary and Assembly constituencies.

11. (1) Every sitting member of the House of the People representing a constituency which, on the appointed day by virtue of the provisions of section 10, stands allotted, with or without alteration of boundaries, to the successor States of Madhya Pradesh or Chhattisgarh, shall be deemed to have been elected to the House of the People by that constituency as so allotted.

Provision as to sitting members

(2) The term of office of such sitting members shall remain unaltered.

The Legislative Assembly

12. (1) The number of seats as on the appointed day in the Legislative Assemblies of the States of Madhya Pradesh and Chhattisgarh shall be two hundred and thirty and ninety respectively.

Provisions as to Legislative Assemblies.

(2) In the Second Schedule to the Representation of the People Act, 1950—

(a) entries 5 to 25 shall be renumbered as entries 6 to 26 respectively;

(b) after entry 4, the following entry shall be inserted namely:—

"5. Chhattisgarh90.";

(c) in entry 13, as so renumbered, for the figures "320", the figures "230" shall be substituted.

13. (1) Every sitting member of the Legislative Assembly of the existing State of Madhya Pradesh elected to fill a seat in that Assembly from a constituency which on the appointed day by virtue of the provisions of section 10 stands allotted, with or without alteration of boundaries, to the State of Chhattisgarh shall, on and from that day, cease to be a member of the Legislative Assembly of Madhya Pradesh and shall be deemed to have been elected to fill a seat in the Legislative Assembly of Chhattisgarh from that constituency as so allotted.

Allocation of sitting members.

43 of 1950

43 of 1950.

(2) All other sitting members of the Legislative Assembly of the existing State of Madhya Pradesh shall continue to be members of the Legislative Assembly of that State and any such sitting member representing a constituency the extent, or the name and extent of which are altered by virtue of the provisions of section 9 shall be deemed to have been elected to the Legislative Assembly of Madhya Pradesh by that constituency as so altered.

(3) Notwithstanding anything contained in any other law for the time being in force, the Legislative Assemblies of Madhya Pradesh and Chhattisgarh shall be deemed to be duly constituted on the appointed day.

(4) The sitting member of the Legislative Assembly of the existing State of Madhya Pradesh nominated to that Assembly under article 333 to represent the Anglo-Indian community shall be deemed to have been nominated to represent and said community in the Legislative Assembly of Madhya Pradesh under that article.

Duration of
Legislative
Assemblies.

14. The period of five years referred to in clause (1) of article 172, shall in the case of Legislative Assembly of the State of Madhya Pradesh deemed to have commenced on the date on which it actually commenced in the case of Legislative Assembly of the existing State of Madhya Pradesh.

Speakers and
Deputy
Speakers.

15. (1) The persons who immediately before the appointed day are the Speaker and Deputy Speaker of the Legislative Assembly of the existing State of Madhya Pradesh shall continue to be the Speaker and Deputy Speaker respectively of that Assembly on and from that day.

(2) As soon as may be after the appointed day, the Legislative Assembly of the successor State of Chhattisgarh shall choose two members of that Assembly to be respectively Speaker and Deputy Speaker thereof and until they are so chosen, the duties of the office of the Speaker shall be performed by such member of the Assembly as the Governor may appoint for the purpose.

Rules of proce-
dure.

16. The rules of procedure and conduct of business of the Legislative Assembly of Madhya Pradesh as in force immediately before the appointed day shall, until rules are made under clause (1) of article 208, be the rules of procedure and conduct of business of the Legislative Assembly of the State of Chhattisgarh, subject to such modifications and adaptations as may be made there in by the Speaker thereof.

Delimitation of constituencies

Delimitation of
constituencies.

17. (1) For the purpose of giving effect to the provisions of section 12, the Election Commission shall determine in the manner hereinafter provided—

(a) the number of seats to be reserved for the Scheduled Castes and the Scheduled Tribes in the Legislative Assemblies of the States of Madhya Pradesh and Chhattisgarh, respectively having regard to the relevant provisions of the Constitution;

(b) the assembly constituencies into which each State referred to in clause (a) shall be divided, the extent of each of such constituencies and in which of them seats shall be reserved for the Scheduled Castes or for the Scheduled Tribes; and

(c) the adjustments in the boundaries and description of the extent of the parliamentary constituencies in each State referred to in clause (a) that may be necessary or expedient.

(2) In determining the matters referred to in clauses (b) and (c) of sub-section (1), the Election Commission shall have regard to the following provisions, namely:—

(a) all the constituencies shall be single-member constituencies;

(b) all constituencies shall, as far as practicable, be geographically compact areas, and in delimiting them regard shall be had to physical features, existing boundaries of administrative units, facilities of communication and conveniences to the public; and

(c) constituencies in which seats are reserved for the Scheduled Castes and the Scheduled Tribes shall, as far as practicable, be located in areas where the proportion of their population to the total population is the largest.

(3) The Election Commission shall, for the purpose of assisting it in the performance of its functions under sub-section (1), the Election Commission shall associate with itself as associate members five persons as the Central Government may by order specify, being persons who are members of the Legislative Assembly of the State or of the House of the People representing the State:

Provided that none of the associate members shall have a right to vote or to sign any decision of the Election Commission.

(4) If, owing to death or resignation, the office of an associate member falls vacant, it shall be filled as far as practicable, in accordance with the provisions of sub-section (2).

(5) The Election Commission shall—

(a) publish its proposals for the delimitation of constituencies together with the dissenting proposals, if any, of any associate member who desires publication thereof in the Official Gazette and in such other manner as the Commission may consider fit, together with a notice inviting objections and suggestions in relation to the proposals and specifying a date on or after which the proposals will be further considered by it;

(b) consider all objection and suggestions which may have been received by it before the date so specified;

(c) after considering all objections and suggestions which may have been received by it before the date so specified, determine by one or more orders the delimitation of constituencies and cause such order or orders to be published in the Official Gazette; and upon such publication, the order or orders shall have the full force of law and shall not be called in question in any court.

(6) As soon as may be after such publication, every such order relating to assembly constituencies shall be laid before the Legislative Assembly of the concerned State.

18. (1) The Election Commission may, from time to time, by notification in the Official Gazette,—

(a) correct any printing mistakes in any order made under section 17 or any error arising therein from inadvertent slip or omission;

(b) where the boundaries or name of any territorial division mentioned in any such order or orders is or are altered, make such amendments as appear to it to be necessary or expedient for bringing such order up-to-date.

(2) Every notification under this section relating to an assembly constituency shall be laid, as soon as may be after it is issued, before the concerned Legislative Assembly.

Scheduled Castes and Scheduled Tribes

19. On and from the appointed day, the Constitution (Scheduled Castes) Order, 1950, shall stand amended as directed in the Third Schedule.

Power of Election Commission to maintain Delimitation Orders up-to-date.

Amendment of the Scheduled Castes Order.

Amendment of
the Scheduled
Tribes Order.

20. On and from the appointed day, the Constitution (Scheduled Tribes) Order, 1950, shall stand amended as directed in the Fourth Schedule.

PART IV

HIGH COURT

Common
High Court
for Madhya
Pradesh and
Chhattisgarh.

21. (1) On and from the appointed day,—

(a) there shall be a common High Court for the States of Madhya Pradesh and Chhattisgarh to be called the High Court of Madhya Pradesh and Chhattisgarh (hereinafter referred to as the common High Court);

(b) the Judges of the High Court of existing State of Madhya Pradesh holding office immediately before the appointed day shall, unless they have elected otherwise, become, on that day, the Judges of the common High Court.

(2) The expenditure in respect of salaries and allowances of the Judges of the common High Court shall be allocated amongst the States of Madhya Pradesh and Chhattisgarh in such proportion as the President may, by order, determine.

Jurisdiction of
the common
High Court.

22. On and from the appointed day, the common High Court shall have, in respect of the territories comprised in the States of Madhya Pradesh and Chhattisgarh, all such jurisdiction, powers and authority as, under the law in force immediately before the appointed day, are exercisable in respect of those territories by the High Court of Madhya Pradesh.

Special
provision
relating to Bar
Council and
Advocates.

23. (1) On and from the appointed day,—

(a) in the Advocates Act, 1961, in section 3—

(i) in clause (a), the words the Madhya Pradesh shall be omitted;

(ii) after clause (f), the following clause shall be inserted, namely:—

“(g) for the States of Madhya Pradesh and Chhattisgarh to be known as the Bar Council of Madhya Pradesh and Chhattisgarh.”;

(b) the Bar Council of Madhya Pradesh shall be deemed to be the Bar Council of Madhya Pradesh and Chhattisgarh with the Advocate-General of the State of Chhattisgarh also as an *ex officio* member.

(2) Any person who immediately before the appointed day is an advocate entitled to practise in the High Court of the existing State of Madhya Pradesh shall be entitled to practise as an advocate in the common High Court.

(3) All persons who immediately before the appointed day are advocates on the roll of the Bar Council of the existing State of Madhya Pradesh shall, on and from that day, become advocates on the roll of the Bar Council of Madhya Pradesh and Chhattisgarh.

(4) The right of audience in the common High Court shall be regulated in accordance with the like principles as immediately before the appointed day are in force with respect to the right of audience in the High Court for Madhya Pradesh:

Provided that as between the Advocate-General of the existing State of Madhya Pradesh and the Advocate-General of Chhattisgarh, the right of audience shall be determined with reference to their dates of enrolment as advocates.

Practice and
procedure in
common High
Court.

24. Subject to the provisions of this Part, the law in force immediately before the appointed day with respect to practice and procedure in the High Court for the existing State of Madhya Pradesh shall, with the necessary modifications, apply in relation to the common High Court.

Custody of
seal of com-
mon High
Court.

25. The law in force immediately before the appointed day with respect to the custody of the seal of the High Court of the existing State of Madhya Pradesh shall, with the necessary modifications, apply with respect to the custody of the seal of the common High Court.

26. The law in force immediately before the appointed day with respect to the form of writs and other processes used, issued or awarded by the High Court of the existing State of Madhya Pradesh shall, with the necessary modifications, apply with respect to the form of writs and other processes used, issued or awarded by the common High Court.

Form of writs
and other pro-
cesses.

27. The law in force immediately before the appointed day with respect to the powers of the Chief Justice, single Judges and division courts of the High Court of the existing State of Madhya Pradesh and with respect to all matters ancillary to the exercise of those powers shall, with the necessary modifications, apply in relation to the common High Court.

Power of
Judges.

28. (1) The principal seat of the common High Court shall, unless otherwise determined by the President after consultation with the Chief Justice of that High Court and the Governors of Madhya Pradesh and Chhattisgarh, be at the same place as the principal seat of the High Court of Madhya Pradesh immediately before the appointed day.

Principal seat
of common
High Court.

(2) The President may, after consultation with the Chief Justice of the common High Court and the Governors of the States of Madhya Pradesh and Chhattisgarh, by notified order, provide for the establishment of a permanent bench or benches of that High Court at one or more place or places within the territories to which the jurisdiction of the High Court extends, other than the principal seat of the High Court and for any matters connected therewith:

Provided that such number of Judges of the High Court of Madhya Pradesh as sitting at Gwalior and Indore in order to exercise the jurisdiction and power as vested in them before the appointed day shall continue to sit thereat and exercise the same jurisdiction and power for the time being vested in the common High Court.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), the Judges and division courts of the common High Court may also sit at such other place or places in the States of Madhya Pradesh and Chhattisgarh as the Chief Justice may, with the approval of the Governors of the States of Madhya Pradesh and Chhattisgarh, appoint.

29. The law in force immediately before the appointed day relating to appeals to the Supreme Court from the High Court for Madhya Pradesh and the Judges and division courts thereof, shall, with the necessary modifications, apply in relation to the common High Court.

Procedure as to
appeals to Su-
preme Court.

30. All proceedings pending in the High Court for Madhya Pradesh immediately before the appointed day shall, on that day, stand transferred to the common High Court.

Transfer of
pending pro-
ceedings.

31. For the purposes of this Part,—

Interpretation.

(a) proceedings shall be deemed to be pending in a court until that court has disposed of all issues between the parties including any issues with respect to the taxation of the costs of the proceedings and shall include appeals, applications for leave to appeal to the Supreme Court, applications for review, petitions for revision and petitions for writs; and

(b) references to a High Court shall be construed as including references to a Judge or division court thereof, and references to an order made by a court or a Judge shall be construed as including references to a sentence, judgement or decree passed or made by that court or judge.

32. Nothing in this Part shall affect the application to the common High Court of any provisions of the Constitution, and this Part shall have effect subject to any provision that may be made on or after the appointed day with respect to that High Court by any Legislature or other authority having power to make such provision.

Saving.

PART V

AUTHORISATION OF EXPENDITURE AND DISTRIBUTION OF REVENUES

Authorisation
of expenditure
of Chhattis-
garh State.

33. The Governor of Madhya Pradesh may, at any time before the appointed day, authorise such expenditure from the Consolidated Fund of the State of Chhattisgarh as he deems necessary for any period not more than six months beginning with the appointed day pending the sanction of such expenditure by the Legislative Assembly of the State of Chhattisgarh:

Provided that the Governor of Chhattisgarh may, after the appointed day, authorise such further expenditure as he deems necessary from the Consolidated Fund of the State of Chhattisgarh for any period not extending beyond the said period of six months.

Reports relat-
ing to accounts
of Madhya
Pradesh State.

34. (1) The reports of the Comptroller and Auditor General of India referred to in clause (2) of article 151 relating to the accounts of the State of Madhya Pradesh in respect of any period prior to the appointed day shall be submitted to the Governor of each of the successor States of Madhya Pradesh and Chhattisgarh who shall cause them to be laid before the Legislature of that State.

(2) The President may be order—

(a) declare any expenditure incurred out of the Consolidated Fund of Madhya Pradesh on any service in respect of any period prior to the appointed day during the financial year or in respect of any earlier financial year in excess of the amount granted for that service and for that year as disclosed in the reports referred to in sub-section (1) to have been duly authorised; and

(b) provide for any action to be taken on any matter arising out of the said reports.

Distribution of
Revenue.

35. The President shall, by order, determine the share of the State of Madhya Pradesh and Chhattisgarh in the total amount payable to the existing State of Madhya Pradesh on the recommendation of the Finance Commission constituted under article 280 of the Constitution, in such manner as he thinks fit.

PART VI

APPORTIONMENT OF ASSETS AND LIABILITIES

Application of
Part.

36. (1) The provisions of this Part shall apply in relation to the apportionment of the assets and liabilities of the State of Madhya Pradesh immediately before the appointed day.

(2) The successor States shall be entitled to receive benefits arising out of the decisions taken by the predecessor State and the successor States shall be liable to bear the financial liabilities arising out of the decision taken by the existing State of Madhya Pradesh.

(3) The apportionment of assets and liabilities would be subject to such financial adjustment as may be necessary to secure just, reasonable and equitable apportionment of the assets and liabilities amongst the successor States.

(4) Any dispute regarding the amount of financial assets and liabilities shall be settled through mutual agreement, failing which by order by Central Government on the advice of the Comptroller and Auditor General of India.

Land and
goods.

37. (1) Subject to the other provisions of this Part, all land and all stores, articles and other goods belonging to the existing State of Madhya Pradesh shall,—

(a) if within the transferred territory, pass to the State of Chhattisgarh; or

(b) in any other case, remain the property of the State of Madhya Pradesh:

Provided that where the Central Government is of opinion that any goods or class of goods should be distributed among the States of Madhya Pradesh and Chhattisgarh,

otherwise than according to the situation of the goods, the Central Government may issue such directions as it thinks fit for a just and equitable distribution of the goods and the goods shall pass to the successor States accordingly.

(2) Stores held of specific purposes, such as use or utilisation in particular institutions, workshops or undertakings or on particular works under construction, shall pass to the successor States in whose territories such institutions, workshops, undertakings or works are located.

(3) Stores relating to the Secretariat and offices of Heads of Departments having jurisdiction over the whole of the existing State of Madhya Pradesh shall be divided between the successor States in accordance with such directions as the Central Government may think fit to issue for a just and equitable distribution of such stores.

(4) Any other unissued stores of any class in the existing State of Madhya Pradesh shall be divided between the successor States in proportion to the total stores of that class purchased in the period of three years prior to the appointed day, for the territories of the existing State of Madhya Pradesh included respectively in each of the successor States:

Provided that where such proportion cannot be ascertained in respect of any class of stores or where the value of any class of such stores does not exceed rupees ten thousands, that class of stores shall be divided between the successor States according to the population ratio.

(5) In this section, the expression "land" includes immovable property of every kind and any rights in or over such property, and the expression "goods" does not include coins, bank notes and currency notes.

38. The total of the cash balances in all treasuries of the State of Madhya Pradesh and the credit balances of the State with Reserve Bank of India, the State Bank of India or any other bank immediately before the appointed day shall be divided between the States of Madhya Pradesh and Chhattisgarh according to the population ratio:

Treasury and
bank balances.

Provided that for the purposes of such division, there shall be no transfer of cash balances from any treasury to any other treasury and the apportionment shall be effected by adjusting the credit balances of the two State in the books of the Reserve Bank of India on the appointed day:

Provided further that if the State of Chhattisgarh has no account on the appointed day with the Reserve Bank of India, the adjustment shall be made in such manner as the Central Government may, by order direct.

39. The right to recover arrears of any tax or duty on property, including arrears of land revenue, shall belong to the successor State in which the property is situated, and the right to recover arrears of any other tax or duty shall belong to the successor State in whose territories the place of assessment of that tax or duty is included on the appointed day.

Arrears of
taxes.

40. (1) The right of the State of Madhya Pradesh to recover any loans or advances made before the appointed day to any local body, society, agriculturist or other person in an area within that State shall belong to the successor State in which that area is included on that day.

Right to re-
cover loans
and advances.

(2) The right of the State of Madhya Pradesh to recover any loans or advances made before the appointed day to any person or institution outside that State shall belong to the State of Madhya Pradesh:

Provided that any sum recovered in respect of any such loan or advance shall be divided between the States of Madhya Pradesh and Chhattisgarh according to the population ratio.

41. (1) The securities held in respect of the investments made from Cash Balances Investment Account or from any Fund in the Public Account of the existing State of Madhya

Investments
and credits to
certain funds.

Pradesh as specified in the Fifth Schedule to this Act shall be apportioned in the ratio of population of the successor States:

Provided that the securities held in investments made from the Calamity Relief Fund of the existing State of Madhya Pradesh shall be divided in the ratio of the area of the territories occupied by the successor States:

Provided further that the balance in the Reserve Funds in the Public Account of Madhya Pradesh created wholly out of appropriations from the Consolidated Fund of the existing State of Madhya Pradesh, to the extent the balances have not been invested outside Government account, shall not be carried forward to similar Reserve Funds in the Public Account of, successor States.

(2) The investments of the State of Madhya Pradesh immediately before the appointed day in the Reserve Fund, shall pass to the State of Chhattisgarh and the investments in any other special fund the objects of which are confined to a local area shall belong to the State in which that area is included on the appointed day.

(3) The investments of the State of Madhya Pradesh immediately before the appointed day in any private, commercial or industrial undertaking, in so far as such investments have not been made or are deemed not to have been made from the cash balance investments account, shall pass to the State in which the principal seat of business of the undertaking is located.

(4) where any body corporate constituted under a Central Act, State Act or Provincial Act for the State of Madhya Pradesh or any part thereof has, by virtue of the provisions of Part II of this Act, become an inter-State body corporate, the investments in, or loans or advances to, any such body corporate by the State of Madhya Pradesh made before the appointed day shall, save as otherwise expressly provided by or under this Act, be divided between the States of Madhya Pradesh and Chhattisgarh in the same proportion in which the assets of the body corporate are divided under the provisions of this Part.

Assets and
liabilities of
State
undertakings.

42. (1) The assets and liabilities relating to any commercial or industrial undertaking of the State of Madhya Pradesh shall pass to the State in which the undertaking is located.

(2) Where a depreciation reserve fund is maintained by the State of Madhya Pradesh for any such commercial or industrial undertaking, the securities held in respect of investments made from that fund shall pass to the State in which the undertaking is located.

Public Debt.

43. (1) All liabilities on account of Public Debt and Public Account of the existing State of Madhya Pradesh Outstanding immediately before the appointed day shall be apportioned in the ratio of population of the successor States unless a different mode of apportionment is provided under the provisions of this Act.

(2) The individual items of liabilities to be allocated to the successor States and the amount of contribution required to be made by one successor State to another shall be such as may be ordered by the Central Government in consultation with the Comptroller and Auditor General of India:

Provided that till such orders are issued, the liabilities on account of Public Debt and Public Account of the existing State of Madhya Pradesh shall continue to be the liabilities of the Successor State of Madhya Pradesh.

(3) The liability on account of loans raised from any source and re-lent by the existing State of Madhya Pradesh to such entities as may be specified by the Central Government and whose area of operation is confined to either of the successor States shall devolve on the respective States as specified in sub-section (4).

(4) The public debt of the existing State of Madhya Pradesh attributable to loan taken from any source for the express purpose of re-lending the same to a specific institution and outstanding immediately before the appointed day shall—

(a) if re-lent to any local body, body corporate or other institution in any local area, be the debt of the State in which the local area is included on the appointed day; or

(b) if re-lent to the Madhya Pradesh State Electricity Board, the Madhya Pradesh State Road Transport Corporation, or the Madhya Pradesh Housing Board or any other institution which becomes an inter-State institution on the appointed day, be divided between the States of Madhya Pradesh and Chhattisgarh in the same proportion in which the assets of such body corporate or institution are divided under the provisions of Part VII of this Act.

(5) Where a sinking fund or a depreciation fund is maintained by the existing State of Madhya Pradesh for repayment of any loan raised by it, the securities held in respect of investments made from that fund shall be divided between the successor States of Madhya Pradesh and Chhattisgarh in the same proportion in which the total public debt is divided between the two States under this section.

(6) In this section, the expression "Government security" means a security created and issued by a State Government for the purpose of raising a public loan and having any of the forms specified in, or prescribed under clause (2) of, section 2 of the Public Debt Act, 1944.

18 of 1944.

44. The liability of the State of Madhya Pradesh in respect of any floating loan to provide short-term finance to any commercial undertaking shall be the liability of the State in whose territories the undertaking is located.

Floating Debt.

45. The liability of the existing State of Madhya Pradesh to refund any tax or duty on property, including land revenue, collected in excess shall be the liability of the successor State in whose territories the property is situated, and the liability of the existing State of Madhya Pradesh to refund any other tax or duty collected in excess shall be the liability of the successor State in whose territories the place of assessment of that tax or duty is included.

Refund of taxes collected in excess.

46. (1) The liability of the existing State of Madhya Pradesh in respect of any civil deposit or local fund deposit shall, as from the appointed day, be the liability of the State in whose area the deposit has been made.

Deposits, etc.

(2) The liability of the existing State of Madhya Pradesh in respect of any charitable or other endowment shall, as from the appointed day, be the liability of the State in whose area the institution entitled to the benefit of the endowment is located or of the State to which the objects of the endowment, under the terms thereof, are confined.

47. The liability of the existing State of Madhya Pradesh in respect of the provident fund account of a Government servant in service on the appointed day shall, as from that day, be the liability of the State to which that Government servant is permanently allotted.

Provident Fund

48. The liability of the existing State of Madhya Pradesh in respect of pensions shall pass to, or be apportioned between, the successor State of Madhya Pradesh and Chhattisgarh in accordance with the provisions contained in the Sixth Schedule to this Act.

Pensions.

49. (1) Where, before the appointed day, the existing State of Madhya Pradesh has made any contract in the exercise of its executive power for any purposes of the State, that contract shall be deemed to have been made in the exercise of the executive power—

Contracts.

(a) if the purposes of the contract are, on and from the appointed day, exclusive purposes of either of the successor State of Madhya Pradesh and Chhattisgarh; and

(b) in any other case, of the State of Madhya Pradesh,

and all rights and liabilities which have accrued, or may accrue under any such contract shall, to the extent to which they would have been rights or liabilities of the existing State of Madhya Pradesh, be rights or liabilities of the State of Chhattisgarh or the State of Madhya Pradesh, as the case may be:

Provided that in any such case as is referred to in clause (b), the initial allocation of rights and liabilities made by this sub-section shall be subject to such financial adjustment as may be agreed upon between the successor State of Madhya Pradesh and Chhattisgarh or in default of such agreement, as the Central Government may by order direct.

(2) For the purposes of this section, there shall be deemed to be included in the liabilities which have accrued or may accrue under any contract—

(a) any liability to satisfy an order or award made by any court or other tribunal in proceedings relating to the contract; and

(b) any liability in respect of expenses incurred in or in connection with any such proceedings.

(3) This section shall have effect subject to the other provisions of this Part relating to the apportionment of liabilities in respect of loans, guarantees and other financial obligations; and bank balances and securities shall, notwithstanding that they partake of the nature of contractual rights, be dealt with under those provisions.

Liability in respect of actionable wrong.

50. Whether, immediately before the appointed day, the existing State of Madhya Pradesh is subject to any liability in respect of any actionable wrong other than breach of contract, that liability shall,—

(a) if the cause of action arose wholly within the territories which, as from that day, are the territories of either of the successor State of Madhya Pradesh or Chhattisgarh, be a liability of that successor State; and

(b) in any other case, be initially a liability of the State of Madhya Pradesh, but subject to such financial adjustment as may be agreed upon between the States of Madhya Pradesh and Chhattisgarh or, in default of such agreement, as the Central Government may by order direct.

Liability as guarantor.

51. Where, immediately before the appointed day, the State of Madhya Pradesh is liable as guarantor in respect of any liability of a registered co-operative society or other person, that liability of the existing State of Madhya Pradesh shall—

(a) if the area of operations of such society or persons is limited to the territories which, as from that day, are the territories of either of the State of Madhya Pradesh or Chhattisgarh, be a liability of that successor State; and

(b) in any other case, be initially a liability of the State of Madhya Pradesh, subject to such financial adjustment as may be agreed upon between the State of Madhya Pradesh and Chhattisgarh or, in default of such agreements, as the Central Government may by order direct.

Items in suspense.

52. If any item in suspense is ultimately found to affect an asset or liability of the nature referred to in any of the foregoing provisions of this Part, it shall be dealt with in accordance with that provision.

Residuary provision.

53. The benefit or burden of any asset or liability of the existing State of Madhya Pradesh not dealt with in the foregoing provisions of this part shall pass to the State of Madhya Pradesh in the first instance, subject to such financial adjustment as may be agreed upon between the State of Madhya Pradesh and Chhattisgarh or, in default of such agreement, as the Central Government may by order direct.

Apportionment of assets or liabilities by agreement.

54. Where the successor State of Madhya Pradesh and Chhattisgarh agree that the benefit or burden of any particular asset or liability should be apportioned between them in a manner other than that provided for in the foregoing provisions of this Part, notwithstanding anything contained therein, the benefit or burden of that asset or liability shall be apportioned in the manner agreed upon.

55. Where, by virtue of any of the provisions of this Part, any of the successor States of Madhya Pradesh and Chhattisgarh becomes entitled to any property or obtains any benefits or becomes subject to any liability, and the Central Government is of opinion, on a reference made within a period of three years from the appointed day by either of the States, that it is just and equitable that property or those benefits should be transferred to, or shared with, the other successor State, or that a contribution towards that liability should be made by the other successor State, the said property or benefits shall be allocated in such manner between the two States, or the other State shall made to the State subject to the liability such contribution in respect thereof, as the Central Government may, after consultation with the two State Governments, by order determine.

Power of Central Government to order allocation or adjustment in certain cases.

56. All sums payable either by the State of Madhya Pradesh or by the State of Chhattisgarh to the other States or by the Central Government to either of those States, by virtue of the provisions of this Act, shall be charged on the Consolidated Fund of the State by which such sums are payable or, as the case may be, the Consolidated Fund of India.

Certain expenditure to be charged on Consolidated Fund.

PART VII

PROVISIONS AS TO CERTAIN CORPORATIONS

57. (1) The following bodies corporate constituted for the existing State of Madhya Pradesh, namely:—

Provisions as to Madhya Pradesh State Electricity Board and State Warehousing Corporation.

54 of 1948.

(a) the State Electricity Board constituted under the Electricity Supply Act, 1948; and

58 of 1962.

(b) the State Warehousing Corporation established under the Warehousing Corporations Act, 1962,

shall, on and from the appointed day, continue to function in those areas in respect of which they were functioning immediately before the day, subject to the provisions of this section and to such directions as may, from time to time, be issued by the Central Government.

(2) Any directions issued by the Central Government under sub-section (1) in respect of the Board or the Corporation shall include a direction that the Act under which the Board or the Corporation was constituted shall, in its application to that Board or Corporation, have effect subject to such exceptions and modifications as the Central Government thinks fit.

(3) The Board or the Corporation referred to in sub-section (1) shall cease to function as from, and shall be deemed to be dissolved on such date as the Central Government may, by order, appoint; and upon such dissolution, its assets, rights and liabilities shall be apportioned between the successor States of Madhya Pradesh and Chhattisgarh in such manner as may be agreed upon between them within one year of the dissolution of the Board or the Corporation, as the case may be, or if no agreement is reached, in such manner as the Central Government may by order determine.

(4) Nothing in the preceding provisions of this section shall be construed as preventing the Government of the State of Madhya Pradesh or, as the case may be, the Government of the State of Chhattisgarh from constituting, at any time on or after the appointed day, a State Electricity Board or a State Warehousing Corporation for the State under the provisions of the Act relating to such Board or Corporation; and if such a Board or Corporation is so constituted in either of the States before the dissolution of the Board or the Corporation referred to in sub-section (1),—

(a) provision may be made by order of the Central Government enabling the new Board or the new Corporation to take over from the existing Board or Corporation all or any of its undertakings, assets, rights and liabilities in that State, and

(b) upon the dissolution of existing Board or Corporation,—

(i) any assets, rights and liabilities which would otherwise have passed to that State by or under the provisions of sub-section (3) shall pass to the new Board or the new Corporation instead of to that State;

(ii) any employee who would otherwise have been transferred to or re-employed by that State under sub-section (3), read with clause (i) of sub-section (5), shall be transferred to or re-employed by the new Board or the new Corporation instead of to or by the State.

(5) An agreement entered into between the successor States under sub-section (3) and an order made by the Central Government under that sub-section or under clause (a) of sub-section (4) may provide for the transfer or re-employment of any employee of the Board or the Corporation referred to in sub-section (1),—

(i) to or by the successor States, in the case of an agreement under sub-section (4) or an order made under that sub-section;

(ii) to or by the new Board or the new Corporation constituted under sub-section (4), in the case of an order made under clause (a) of that sub-section,

and, subject to the provisions of section 69, also for the terms and conditions of service applicable to such employees after such transfer or re-employment.

Provisions as
to Madhya
Pradesh State
Financial
Corporation.

58. (1) The Madhya Pradesh State Financial Corporation established under the State Financial Corporations Act, 1951 shall, on and from the appointed day, continue to function in those areas in respect of which it was functioning immediately before that day, subject to the provisions of this section and to such directions as may from time to time, be issued by the Central Government.

63 of 1951.

(2) Any directions issued by the Central Government under sub-section (1) in respect of the Corporation may include a direction that the said Act, in its application to the Corporation, shall have effect subject to such exceptions and modifications as may be specified in the direction.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), the Board of Directors of the Corporation may, with the previous approval of the Central Government and shall, if so required by the Central Government, convene at any time after the appointed day a meeting for the consideration of a scheme for the reconstitution or reorganisation or dissolution, as the case may be, of the Corporation including proposals regarding the formation of new Corporations, and the transfer thereto of the assets, rights and liabilities of the existing Corporation, and if such a scheme is approved at the general meeting by a resolution passed by a majority of the shareholders present and voting, the scheme shall be submitted to the Central Government for its sanction.

(4) If the scheme is sanctioned by the Central Government either without modifications or with modifications which are approved at a general meeting, the Central Government shall certify the scheme, and upon such certification, the scheme shall, notwithstanding anything to the contrary contained in any law for the time being in force, be binding on the corporations affected by the scheme as well as the shareholders and creditors thereof.

(5) If the scheme is not so approved or sanctioned, the Central Government may refer the scheme to such Judge of the High Court of Madhya Pradesh and Chhattisgarh as may be nominated in this behalf by the Chief Justice thereof, and the decision of the Judge in regard to the scheme shall be final and shall be binding on the corporations affected by the scheme as well as the shareholders and creditors thereof.

(6) Nothing in the preceding provisions of this section shall be construed as preventing the Government of the States of Madhya Pradesh and Chhattisgarh from constituting,

63 of 1951. at any time on or after the appointed day, a State Financial Corporation for that State under the State Financial Corporations Act, 1951.

59. (1) Notwithstanding anything contained in the foregoing provisions of this Part, each of the companies specified in the Seventh Schedule to this Act shall, on and from the appointed day and until otherwise provided for in any law, or in any agreement among the successor States, or in any direction issued by the Central Government, continue to function in the areas in which it was functioning immediately before that day; and the Central Government may from time to time issue such directions in relation to such functioning as it may deem fit, notwithstanding anything to the contrary contained in the Companies Act, 1956, or in any other law.

Provisions as to certain corporations

1 of 1956.

(2) Any directions issued under sub-section (1), in respect of a company referred to in that sub-section, may include directions—

(a) regarding the division of the interests and shares in the company between the State of Madhya Pradesh and Chhattisgarh;

(b) requiring the reconstitution of the Board of Directors of the company so as to give adequate representation to both the successor States.

60. (1) Save as otherwise expressly provided by the foregoing provisions of this Part, where any body corporate constituted under a Central Act, State Act or Provisions Act for the existing State of Madhya Pradesh or any part thereof has, by virtue of the provisions of Part II of this Act, become an inter-State body corporate, then, the body corporate shall, on and from the appointed day, continue to function and operate in those areas in respect of which it was functioning and operating immediately before that day, subject to such directions as may from time to time be issued by the Central Government, until other provision is made by law in respect of the said body corporate.

General provisions as to statutory corporations

(2) Any directions issued by the Central Government under sub-section (1) in respect of any such body corporate shall include a direction that any law by which the said body corporate is governed shall, in its application to that body corporate, have effect subject to such exceptions and modifications as may be specified in the direction.

59 of 1988. 61. (1) Notwithstanding anything contained in section 88 of the Motor Vehicles Act, 1988, a permit granted by the State Transport Authority of the existing State of Madhya Pradesh or any Regional Transport Authority in that State shall, if such permit was, immediately before the appointed day, valid and effective in any area in the transferred territory, be deemed to continue to be valid and effective in that area after that day subject to the provisions of that Act as for the time being in force in that area; and it shall not be necessary for any such permit to be countersigned by the State Transport Authority of Chhattisgarh or any Regional Transport Authority therein for the purpose of validating it for use in such area:

Temporary provisions as to continuance of certain existing road transport permits.

Provided that the Central Government may, after consultation with the successor State Government or Governments concerned add to, amend or vary the conditions attached to the permit by the Authority by which the permit was granted.

(2) No tolls, entrance fees or other charges of a like nature shall be levied after the appointed day in respect of any transport vehicle for its operations in any of the successor States under any such permit, if such vehicle was, immediately before that day, exempt from the payment of any such toll, entrance fees or other charges for its operations in the transferred territory:

Provided that the Central Government may, after consultation with the State Government or Governments concerned, authorise the levy of any such toll, entrance fees or other charges, as the case may be.

62. Where on account of the reorganisation of the State of Madhya Pradesh under this Act, any body corporate constituted under a Central Act, State Act or Provincial Act, any co-operative society registered under any law relating to co-operative societies or any

Special provisions relating to retrenchment compensation in certain cases.

commercial or industrial undertaking of that State is reconstituted or reorganised in any manner whatsoever or is amalgamated with any other body corporate, co-operative society or undertaking, or is dissolved, and in consequence of such reconstitution, reorganisation, amalgamation or dissolution, any workman employed by such body corporate or in any such co-operative society or undertaking, is transferred to, or re-employed by any other body corporate, or in any other co-operative society or undertaking, then notwithstanding anything contained in section 25F, 25FF or 25FFF of the Industrial Disputes Act, 1947, such transfer or re-employment shall not entitle him to any compensation under that section: 14 of 1947.

Provided that—

(a) the terms and conditions of service applicable to the workman after such transfer or re-employment are not less favourable to the workman than those applicable to him immediately before the transfer or re-employment;

(b) the employer in relation to the body corporate, the co-operative society or the undertaking where the workman transferred or re-employed is, by agreement or otherwise, legally liable to pay to the workman, in the event of his retrenchment, compensation under section 25F, 25FF, or 25FFF of the Industrial Disputes Act, 1947 on the basis that his service has been continuous and has not been interrupted by the transfer or re-employment. 14 of 1947.

Special provision as to income-tax.

63. Where the assets, rights and liabilities of any body corporate carrying on business are, under the provisions of this Part, transferred to any other bodies corporate which after the transfer carry on the same business, the losses or profits or gains sustained by the body corporate first mentioned which, but for such transfer, would have been allowed to be carried forward and set off in accordance with the provisions of Chapter VI of the Income-tax Act, 1961, shall be apportioned amongst the transferee bodies corporate in accordance with the rules to be made by the Central Government in this behalf and, upon such apportionment, the share of loss allotted to each transferee body corporate shall be dealt with in accordance with the provisions of Chapter VI of the said Act, as if the transferee body corporate had itself sustained such loss in a business carried on by it in the years in which these losses were sustained. 43 of 1961.

Continuance of facilities in certain State institutions.

64. (1) The Government of State of Madhya Pradesh or Chhattisgarh, as the case may be, shall, in respect of the institutions specified in the Eighth Schedule to this Act, located in that State, continue to provide facilities to the people of the other State which shall not, in any respect, be less favourable to such people than what were being provided to them before the appointed day, for such period and upon such terms and conditions as may be agreed upon between the two State Governments before the first day of December, 1999 or if no agreement is reached by the said date as may be fixed by order of the Central Government.

(2) The Central Government may, at any time before the first day of December, 1999, by notification in the Official Gazette, specify in the Schedule any other institution existing on the appointed day in the States of Madhya Pradesh and Chhattisgarh and on the issue of such notification, the Schedule shall be deemed to be amended by the inclusion of the said institution therein.

PART VIII

PROVISIONS AS TO SERVICES

Provisions relating to All-India Services.

65. (1) In this section, the expression "State Cadre"—

(a) in relation to the Indian Administrative Service, has the meaning assigned to it in the Indian Administrative Service (Cadre) Rules, 1954;

(b) in relation to the Indian Police Service, has the meaning assigned to it in the Indian Police Service (Cadre) Rules, 1954; and

(c) in relation to the Indian Forest Service, has the meaning assigned to it in the Indian Forest Service (Cadre) Rules, 1966.

(2) In place of the cadres of the Indian Administrative Service, Indian Police Service and Indian Forest Service for the existing State of Madhya Pradesh, there shall, on and from the appointed day, be two separate cadres, one for the State of Madhya Pradesh and the other for the State of Chhattisgarh in respect of each of these services.

(3) The initial strength and composition of the State cadres referred to in sub-section (2) shall be such as the Central Government may, by order, determine before the appointed day.

(4) The members of each of the said service borne on the Madhya Pradesh cadre thereof immediately before the appointed day shall be allocated to the State cadres of the same service constituted under sub-section (2) in such manner and with effect from such date or dates as the Central Government may, by order, specify.

61 of 1951. (5) Nothing in this section shall be deemed to affect the operation, on or after the appointed day, of the All-India Service Act, 1951, or the rules made thereunder.

66. (1) Every person who immediately before the appointed day is serving in connection with the affairs of the existing State of Madhya Pradesh shall, on and from that day provisionally continue to serve in connection with the affairs of the State of Madhya Pradesh unless he is required, by general or special order of the Central Government to serve provisionally in connection with the affairs of the State of Chhattisgarh:

Provisions relating to services in Madhya Pradesh and Chhattisgarh.

Provided that no direction shall be issued under this section after the expiry of a period of one year from the appointed day.

(2) As soon as may be after the appointed day, the Central Government shall, by general or special order, determine the successor State to which every person referred to in sub-section (1) shall be finally allotted for service and the date with effect from which such allotment shall take effect or be deemed to have taken effect.

(3) Every person who is finally allotted under the provisions of sub-section (2) to a successor State shall, if he is not already serving therein be made available for serving in the successor State from such date as may be agreed upon between the Governments concerned or in default of such agreement, as may be determined by the Central Government.

67. (1) Nothing in this section or section 66 shall be deemed to affect on or after the appointed day the operation of the provisions of Chapter I of Part XIV of the Constitution in relation to determination of the conditions of service of persons serving in connection with the affairs of the Union or any State:

Provisions relating to other services.

Provided that the conditions of service applicable immediately before the appointed day in the case of any person deemed to have been allocated to the State of Madhya Pradesh or to the State of Chhattisgarh under section 66 shall not be varied to his disadvantage except with the previous approval of the Central Government.

(2) All services prior to the appointed day rendered by a person—

(a) if he is deemed to have been allocated to any State under section 66, shall be deemed to have been rendered in connection with the affairs of that State;

(b) if he is deemed to have been allocated to the Union in connection with the administration of the Chhattisgarh shall be deemed to have been rendered in connection with the affairs of the Union,

for the purposes of the rules regulating his conditions of service.

(3) The provisions of section 65, shall not apply in relation to members of any All-India Service.

Provisions as to continuance of officers in same post.

68. (1) Every person who, immediately before the appointed day is holding or discharging the duties of any post or office in connection with the affairs of the existing State of Madhya Pradesh in any area which on that day falls within any of the successor States shall continue to hold the same post or office in that successor State, and shall be deemed, on and from that day, to have been duly appointed to the post or office by the Government of, or any other appropriate authority in, that successor State:

Provided that nothing in this section shall be deemed to prevent a competent authority, on and from the appointed day, from passing in relation to such person any order affecting the continuance in such post or office.

Advisory Committees

69. The Central Government may, by order establish one or more Advisory Committees for the purpose of assisting it in regard to—

(a) the discharge of any of its functions under this Part; and

(b) the ensuring of fair and equitable treatment to all persons affected by the provisions of this Part and the proper consideration of any representations made by such persons.

Power of Central Government to give directions.

70. The Central Government may, give such directions to the State Government of Madhya Pradesh and the State Government of Chhattisgarh as may appear to it to be necessary for the purpose of giving effect to the foregoing provisions of this Part and the State Governments shall comply with such directions.

Provisions as to State Public Service Commission.

71. (1) The Public Service Commission for the existing State of Madhya Pradesh shall, on and from the appointed day, be the Public Service Commission for the State of Madhya Pradesh.

(2) The persons holding office immediately before the appointed day as Chairman or other member of the Public Service Commission for the existing State of Madhya Pradesh shall, as from the appointed day, be the Chairman or, as the case may be, the other member of the Public Service Commission for the State of Madhya Pradesh.

(3) Every person who becomes Chairman or other member of the Public Service Commission for the State of Madhya Pradesh on the appointed day under sub-section (2), shall—

(a) be entitled to receive from the Government of the State of Madhya Pradesh conditions of service not less favourable than those to which he was entitled under the provisions applicable to him;

(b) subject to the proviso to clause (2) of article 316, hold office or continue to hold office until the expiration of his term of office as determined under the provisions applicable to him immediately before the appointed day.

(4) The report of the Madhya Pradesh Public Service Commission as to the work done by the Commission in respect of any period prior to the appointed day shall be presented under clause (2) of article 323 of the Governors of the States of Madhya Pradesh and Chhattisgarh, and the Governor of the State of Madhya Pradesh shall, on receipt of such report, cause a copy of thereof together with a memorandum explaining as far as possible, as respects the cases, if any, where the advice of the Commission was not accepted, the reasons for such non-acceptance to be laid before the Legislature of the State of Madhya Pradesh and it shall not be necessary to cause such report or any such memorandum to be laid before the Legislative Assembly of the State of Chhattisgarh.

PART IX

MANAGEMENT AND DEVELOPMENT OF WATER RESOURCES

Water Resources Development and its Management.

72. (1) Notwithstanding anything contained in this Act but subject to the provisions of section 73, all rights and liabilities of the existing State of Madhya Pradesh in relation to a water resource projects in relation to Sone and its tributaries shall, on the appointed day be the rights and liabilities of the successor States in such proportion as may be fixed

and subject to such adjustments as may be made, by agreement entered into by the said States after consultation with the Central Government, or, if no such agreement is entered into within two years of the appointed day, then the Central Government may by order determine within one year having regard to the purposes of the project:

Provided that the order so made by the Central Government may be varied by any subsequent agreement entered into by the successor States after consultation with the Central Government.

(2) An agreement or order referred to in sub-section (1) shall, where an extension or further development of any of the projects referred to in that sub-section after the appointed day is undertaken, be the rights and liabilities of the successor States in relation to such extension or further development.

(3) The rights and liabilities referred to in sub-sections (1) and (2) shall include,—

(a) the right to receive and utilise the water available for distribution as a result of the projects; and

(b) the right to receive and utilise the power generated as a result of the projects,

but shall not include the rights and liabilities under any contract entered into before the appointed day by the Government of the existing State of Madhya Pradesh with any person or authority other than Government.

73. (1) The Central Government shall constitute a Board to be called the Sone Management Board (hereinafter referred to as the Board) for administration, construction, maintenance and operation of projects referred to in sub-section (1) of section 72 for any or for a combination of following purposes, namely:—

Constitution
and Functions
of the
Management
Board.

(i) Irrigation;

(ii) Rural and Urban Water Supply;

(iii) Hydro Power generation;

(iv) Navigation; and

(v) for any other purpose which the Central Government may, by notification in the Official Gazette, specified.

(2) The Board shall consist of—

(a) a whole time Chairman and two whole time members to be appointed by the Central Government;

(b) a representative each of the Government of the States of Uttar Pradesh, Bihar, Madhya Pradesh and Chhattisgarh to be nominated by the respective Governments.

(c) two representatives of the Central Government to be nominated by that Government.

(3) The functions of the Board shall include—

(a) the regulation of supply of water from the projects referred to in sub-section (1) of section 72 to the States of Uttar Pradesh, Bihar, Madhya Pradesh and Chhattisgarh having regard to—

(i) any agreement entered into or arrangement made covering the Governments of existing State of Madhya Pradesh and the States of Uttar Pradesh and Bihar, and

(ii) the agreement or the order referred to in sub-section (2) of section 72;

(b) the regulation of supply of power generated at the projects referred to in sub-section (1) of section 72, to any Electricity Board or other authority in-charge of the distribution of power having regard to—

(i) any agreement entered into or arrangement made covering the Governments of existing State of Madhya Pradesh and the States of Uttar Pradesh and Bihar;

(ii) the agreement or there order referred to in sub-section (2) of section 72;

(c) construction of such of the remaining or new works connected with the development of the water resource project relating to the rivers or their tributaries as the Central Government may specify by notification in the Official Gazette.

(d) such other functions as the Central Government may after consultation with the Governments of the States of Uttar Pradesh, Bihar, Madhya Pradesh and Chhattisgarh entrust to it.

Staff of the
Management
Board.

74. (1) The Board may employ such staff, as it may consider necessary for the efficient discharge of its functions under this Act:

Provided that every person who immediately before the constitution of the said Board was engaged in the construction, maintenance or operation of the works relating to the projects referred to in sub-section (1) of section 72 shall continue to be so employed under the Board in connection with the said works on the same terms and conditions of the service as were applicable to him before such constitution until the Central Government by order, directs otherwise:

Provided further that the said Board may at any time in consultatin with the State Governments or the Electricity Board concerned and with prior approval of the Central Government retain any such person for service under the State Government or Board.

(2) The Government of the States of Uttar Pradesh, Bihar, Madhya Pradesh and Chhattisgarh shall at all times provide the necessary funds to the Board to meet all expenses (including the salaries and allowances of the staff) required for the discharge of its functions and such amounts shall be apportioned among the States concerned in such proportion as the Central Gvoernment may having regard to the benefits to each of the said State specify.

(3) The Board shall be under the control of the Central Government and shall comply with such directions, as may from time to time, be given to it by that Government.

(4) The Board may, with the approval of the Central Government delegate such of its powers, functions and duties as it may deem fit to the Chairman of the said Board or to any officer subordinate to the Board.

(5) The Central Government may, for the purpose of enabling the Board to function efficiently, issue such directions to the State Governments concerned, or any other authority, and the State Governments, or the other authority shall comply with such directions.

Jurisdiction of
the Board.

75. (1) The Board shall, ordinarily exercise jurisdiction in regard to any of the projects referred to in sub-section (1) of section 72 over headwork (barrages, dams, reservoir, regulating construction), part of Canal network and transmission lines necessary to deliver water or power to the States concerned.

(2) If any question arises as to whether the Board has jurisdiction under sub-section (1) over any project referred thereto, the same shall be referred to the Central Government for decision thereon.

76. The Board may, with the prior approval of the Central Government by notification in the Official Gazette, make regulations consistent with the Act and the orders made thereunder, to provide for:—

(a) regulating the time and place of meetings of the Board and the procedure to be followed for the transaction of business at such meetings;

(b) delegation of powers and duties to the Chairman or any officer of the Board.

(c) the appointment and regulation of the conditions of service of the officers and other staff of the Board.

(d) any other matter for which regulations are considered necessary by the Board.

PART X

LEGAL AND MISCELLANEOUS PROVISIONS

77. On and from the appointed day, in section 15 of the States Reorganisation Act, 1956 in clause (b), for the words "Uttar Pradesh and Madhya Pradesh", the words "Uttar Pradesh, Madhya Pradesh and Chhattisgarh" shall be substituted.

Amendment
of Act 37 of
1956.

78. The provisions of Part II of this Act shall not be deemed to have effected any change in the territories to which any law in force immediately before the appointed day extends or applies, and territorial references in any such law to the State of Madhya Pradesh shall, until otherwise provided by a competent Legislature or other competent authority by constituted as meaning the territories within the existing State of Madhya Pradesh before the appointed day.

Territorial
extent of laws.

79. For the purpose of facilitating the application in relation to the State of Madhya Pradesh or Chhattisgarh of any law made before the appointed day, the appropriate Government may, before the expiration of two years from that day, by order, make such adaptations and modifications of the law, whether by way of repeal or amendment, as may be necessary or expedient, and thereupon every such law shall have effect subject to the adaptations and modifications so made until altered, repealed or amended by a competent Legislature or other competent authority.

Power to adapt
laws.

Explanation.—In this section, the expression "appropriate Government" means as respects any law relating to a matter enumerated in the Union List, the Central Government, and as respects any other law in its applications to a State, the State Government.

80. Notwithstanding that no provision or insufficient provision has been made under section 79 for the adaptation of a law made before the appointed day, any court, tribunal or authority, required or empowered to enforce such law may, for the purpose of facilitating its application in relation to the State of Madhya Pradesh or Chhattisgarh, construe the law in such manner, without affecting the substance, as may be necessary or proper in regard to the matter before the court, tribunal or authority.

Power to
construe laws

81. The Government of the State of Chhattisgarh, as respects the transferred territory may, by notification in the Official Gazette, specify the authority, officer or person who, on or after the appointed day, shall be competent to exercise such functions exercisable under any law in force on that day as may be mentioned in that notification and such law shall have effect accordingly.

Power to
name
authorities,
etc., for
exercising
statutory
functions.

82. Where immediately before the appointed day, the existing State of Madhya Pradesh is a party to any legal proceedings with respect to any property, rights or liabilities subject to apportionment between the States of Madhya Pradesh and Chhattisgarh under this Act, the State of Madhya Pradesh or Chhattisgarh which succeeds to, or acquires a share in, that property or those rights or liabilities by virtue of any provision of this Act

Legal
proceedings

shall be deemed to be substituted for the existing State of Madhya Pradesh or added as a party to those proceedings, and the proceedings may continue accordingly.

Transfer of
pending
proceedings.

83. (1) Every proceeding pending immediately before the appointed day before a court (other than High Court), tribunal, authority or officer in any area which on that day falls within the State of Madhya Pradesh shall, if it is a proceeding relating exclusively to the territory, which as from that day are the territories of Chhattisgarh State, stand transferred to the corresponding court, tribunal, authority or officer of that State.

(2) If any question arises as to whether any proceeding should stand transferred under sub-section (1), it shall be referred to the common High Court and the decision of that High Court shall be final.

(3) In this section—

(a) "proceeding" includes any suit, case or appeal; and

(b) "corresponding court, tribunal, authority or officer" in the State of Chhattisgarh means—

(i) the court, tribunal, authority or officer in which, or before whom, the proceeding would have laid if it had been instituted after the appointed day; or

(ii) in case of doubt, such court, tribunal, authority, or officer in that State, as may be determined after the appointed day by the Government of that State or the Central Government, as the case may be, or before the appointed day by the Government of the existing State of Madhya Pradesh to be the corresponding court, tribunal, authority or officer.

Right of
pleaders to
practise in
certain cases.

84. Any person who, immediately before the appointed day, is enrolled as a pleader entitled to practise in any subordinate courts in the existing State of Madhya Pradesh shall, for a period of one year from that day, continue to be entitled to practise in those courts, notwithstanding that the whole or any part of the territories within the jurisdiction of those courts has been transferred to the State of Chhattisgarh.

Effect of
provisions of
the Act
inconsistent
with other
laws.

85. The Provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law.

Power to
remove
difficulties.

86. (1) If any difficulty arises in giving effect to the provisions of this Act, the President may, by order, do anything not inconsistent with such provisions which appears to him to be necessary or expedient for the purpose of removing the difficulty:

Provided that no such order shall be made after the expiry of a period of three years from the appointed day.

(2) Every order made under this section shall be laid, before each House of Parliament.

THE FIRST SCHEDULE

(See section 8)

(1) Of the six members whose term of office will expire on the 2nd of April, 2000, namely Smt. Veena Verma, Shri Govindram Miri, Shri Hansraj Bhardwaj, Shri Radha Kishan Malviya, Shri Gufran Azam and Shri Raghavji; Smt. Veena Verma and Shri Govindram Miri shall be deemed to have been elected to fill two of the seats allotted to the State of Chhattisgarh and other four sitting members shall be deemed to have been elected to fill four of the seats allotted to the State of Madhya Pradesh.

(2) Of the five sitting members whose term of office will expire on the 9th April, 2002 namely, Shri Lakkhiram Agrawal, Shri Surendra Kumar Singh, Shri Sikandar Bakht, Shri Suresh Pachouri and Shri Abdul Gayur Qureshi; Shri Lakkhiram Agrawal and

Shri Surendra Kumar Singh shall be deemed to have elected to fill two of the seats allotted to the State of Chhattisgarh and other three sitting members shall be deemed to have been elected to fill three of the seats allotted to State of Madhya Pradesh.

(3) Of the five sitting members whose term of office will expire on the 30th of June, 2004, namely Shri O. Rajagopal, Shri Dilip Kumar, Shri Jhumuklal, Shri Balkavi and Smt. Mobil Ribelo, such one as the Chairman of the Council of States may determine by drawing lot from Shri Dilip Kumar and Shri Jhumuklal shall be deemed to have been elected to fill one of the seats allotted to the State of Chhattisgarh and other four sitting members shall be deemed to have been elected to fill four of the seats allotted to the State of Madhya Pradesh.

THE SECOND SCHEDULE

(See section 10)

1. AMENDMENTS TO THE DELIMITATION OF PARLIAMENTARY AND ASSEMBLY CONSTITUENCIES ORDER, 1976

IN SCHEDULE XII to the Delimitation of Parliamentary and Assembly Constituencies Order, 1976,—

(1) In PART-A — Parliamentary Constituencies,—

(a) serial number 12 to 22 (both inclusive) and entries relating thereto shall be omitted;

(b) in serial number 10, the following figures, words, brackets and letters shall be omitted, namely:—

“87. Mahendragarh (ST)” and : “88. Baikunthpur”.

(2) In PART-B — Assembly Constituencies, serial numbers 87 to 176 (both inclusive) and entries relating thereto shall be omitted.

THE THIRD SCHEDULE

(See section 19)

AMENDMENT OF THE CONSTITUTION (SCHEDULED CASTES) ORDER, 1950

In the Constitution (Scheduled Castes) Order, 1950, in the Schedule, after Part XXII, insert the following, namely:—

PART XXIII — Chhattisgarh

1. Audhelia
2. Bagri, Bagdi
3. Bahna, Bajana
4. Balahi, Balai
5. Banchada
6. Barahar, Basod
7. Bargunda
8. Basor, Burud, Bansor, Bansodi, Bansphor, Basar
9. Bedia
10. Beldar, Sunkar
11. Bhangi, Mehtar, Balmiki, Lalbegi, Dharkar
12. Bhanumati
13. Chadar
14. Chamar, Chamari, Bairwa, Bhambhi, Jatav, Mochi, Regar, Nona, Rohidas, Ramnami, Satnami, Surjyabanshi, Surjyaramnami, Ahirwar, Chamar, Mangan, Raidas
15. Chidar
16. Chikwa, Chikvi
17. Chitar
18. Dahait, Dahayat, Dahat
19. Dewar
20. Dhanuk
21. Dhed, Dher
22. Dohor
23. Dom, Dumar, Dome, Domar, Doris
24. Ganda, Gandhi
25. Ghasi, Ghasia
26. Holiya
27. Kanjar
28. Katia, Patharia
29. Khatik
30. Koli, Kori
31. Khangar, Kanera, Mirdha
32. Kuchbandhia
33. Mahar, Mehra, Mehar
34. Mang, Mang Garodi, Mang Garudi, Dankhani Mang, Mang Mahasi, Madari, Garudi, Rahe Mang
35. Meghwal
36. Moghia
37. Muskhan

- 38. Nat, Kalbelia, Sapera, Navdigar, Kubutar
- 39. Pasi
- 40. Rujjhar
- 41. Sansi, Sansia
- 42. Silawat
- 43. Zamral

THE FOURTH SCHEDULE

(See section 20)

AMENDMENT OF THE CONSTITUTION (SCHEDULED TRIBES) ORDER, 1950

In the Constitution (Scheduled Tribes) Order, 1950,—

- (1) In paragraph 2, for the figures "XIX", the figures "XX" shall be substituted;
- (2) In the Schedule, after Part XIX, the following Part shall be inserted, namely:—

"PART XX — CHHATTISGARH

1. Agariya
2. Andh
3. Baiga
4. Bhaina
5. Bharia, Bhumia, Bhuinhar, Bhumia, Bhumia, Bharia, Paliha, Pando
6. Bhatta
7. Bhil, Bhilala, Barela, Patelia
8. Bhil Mina
9. Bhunjia
10. Biar, Biyar
11. Binjhar
12. Birhul, Birhor
13. Damor, Damaria
14. Dhanwar
15. Gadaba, Gadba
16. Gond, Arakh, Arrakh, Agaria, Asur, Badi Maria, Bada Maria, Bhatola, Bhimma, Bhuta, Koilabhuta, Koliabhuti, Bhar, Bisonhorn Maria, Chota Maria, Dandami Maria Dhuru, Dhurwa, Dhoba, Dhulia, Dorla, Gaiki, Gatta, Gatti, Gaita, Gond, Gowari, Hill Maria, Kandra, Kalanga, Khatola, Koitar, Kora, Khirwar, Khitwara, Kucha Maria, Kuchaki Maria, Madia, Maria, Mana, Mannewar, Moghya, Mogia, Monghya, Mudia, Muria, Nagarchi, Nagwanshi, Ojha, Raj, Sonjhari, Jhareka, Thatia, Ihotya, Wade Maria, Vade Maria, Daroi
17. Halba, Halbi
18. Kamar
19. Karku
20. Kavar, Kanwar, Kaur, Cherwa, Rathia, Tanwar, Chattri
21. Khairwar, Kondar
22. Kharia
23. Kondh, Khond, Khand
24. Kol
25. Kolam
26. Korku, Bopchi, Mouasi, Nihar, Nahul, Bondhi, Bondeya
27. Korwa, Kodaku
28. Majhi
29. Majhwar
30. Mawasi
31. Munda
32. Nagesia, Nagasia
33. Oraon, Dhanka, Dhangad
34. Pao
35. Pardhan, Pathari, Saroti

36. Pardhi, Bahelia, Bahellia, Chita Pardhi, Langoli Pardhi, Phans Pardhi, Shikari, Takankar, Takia [in (1) Bastar, Raigarh and Surguja districts (2) Bilaspur and Katghora tahsils of Bilaspur district (3) Durg and Balod tahsils of Durg district, (4) Chowki, Manpur and Mohala Revenue Inspector Circles of Rajnandgaon district (5) Bindra Nawagarh, Dhamtari and Mahasamund tahsils of Raipur district]
37. Parja
38. Sahariya, Saharia, Scharia, Sehria, Sosia, Sor
39. Saonta, Saunta
40. Saur
41. Sawar, Sawara
42. Sonr

THE FIFTH SCHEDULE*(See section 41)*

1. Famine Relief Fund
2. Guarantee Reserve Fund Investment Account
3. Revenue Reserve Fund Investment Account
4. State Agriculture Credit (Relief and Guarantee) Fund
5. Cash Balance Investment Account
6. Land Revenue and Stamp Fund
7. Rural Development Fund
8. Energy Development Cess Fund
9. Compensatory Afforestation Fund
10. Forest Development Cess Fund
11. Road Safety Fund
12. Depreciation/Renewal Reserve Fund
13. Students Welfare Fund
14. World Food Programme Project Fund
15. Madhya Pradesh State Employees Family Benefit Fund

THE SIXTH SCHEDULE

(See section 48)

APPORTIONMENT OF LIABILITY IN RESPECT OF PENSIONS

1. Subject to the adjustments mentioned in paragraph 3, each of to a successor State shall in respect to pensions granted before the appointed day by the existing State of Madhya Pradesh, pay the pensions drawn in its treasuries.

2. Subject to the adjustments, the liability in respect of pensions of officers serving in connection with the affairs of the existing State of Madhya Pradesh who retire or proceed on leave preparatory to retirement before the appointed day, but whose claims for pensions are outstanding immediately before that day, shall be the liability of the State of Madhya Pradesh.

3. There shall be computed, in respect of the period commencing on the appointed day and ending on the 31st day of March, 1998 and in respect of each subsequent financial year, the total payment made in all the successor State in respect of pension referred to in paragraph 1 and 2. That total representing the liability of the existing State of Madhya Pradesh in respect of pension shall be apportioned between the successor State on the population ratio and any successor State paying the State paying more than its due share shall be reimbursed the excess amount by the successor State or State paying less.

4. The liability of the existing State of Madhya Pradesh in respect of pension granted before the appointed day and drawn in any area outside the territories of the existing State shall be the liability of the State of Madhya Pradesh subject to adjustments to be made in accordance with paragraph 3 as if such pensions had been drawn in any treasury in the State of Madhya Pradesh under paragraph 1.

5. (1) The liability in respect of the pensions of any officer serving immediately before the appointed day in connection with the affairs of the existing State of Madhya Pradesh and retiring on or after that day, shall be that of the successor State granting him the pension; but the portion of the pension attributable to the service of any such officer before the appointed day in connection with the affairs of the existing State of Madhya Pradesh shall be allocated between the successor State in the population ratio, and the Government granting the pension shall be entitled to receive from each of the successor State its share of this liability.

(2) If any such officer was serving after the appointed day in connection with the affairs of more than one successor State other than the one granting the pension shall reimburse to the Government by which pension is granted an amount which bears to the portion of the pension attributable to his service after the appointed day the same ratio as the period of his qualifying service after the appointed under the reimbursing State bears to total qualifying service of such officer after the appointed day reckoned for the purposes of pension.

6. Any reference in this Schedule to a pension shall be construed as including a reference value of the pension.

THE SEVENTH SCHEDULE

(See section 59)

LIST OF GOVERNMENT COMPANIES

(A) Bodies constituted under the provisions of Companies Act, 1956 (1 of 1956)

1. MP State Industries Corporation Limited.	Bhopal
2. MP Laghu Udhog Nigam Limited	Bhopal
3. MP State Mining Corporation	Bhopal
4. MP State Industrial Development Corporation Limited.	Bhopal
5. MP State Agro Industries Development Corporation Limited.	Bhopal
6. MP State Civil Supplies Corporation Limited.	Bhopal
7. MP State Textile Corporation	Bhopal
8. MP State Forest Development Corporation	Bhopal
9. MP State Tourism Development Corporation	Bhopal
10. MP Police Housing Corporation Limited	Bhopal
11. MP Leather Development Corporation	Bhopal
12. MP State Hastashilpa Development Corporation	Bhopal
13. MP Urja Vikas Nigam Limited.	Bhopal
14. MP State Film Development Corporation	Bhopal
15. MP Backward Class Finance and Development Corporation	Bhopal
16. MP Adivasi Vitt Evam Vikas Nigam	Bhopal
17. MP Export Corporation	Bhopal
18. Provident Investment Corporation	Mumbai

(B) Bodies Constituted under other Statutes

- | | |
|--|---|
| 1. MP Financial Corporation, Indore | State Finance Corporation Act, 1951. |
| 2. MP State Electronics Development Corporation, Bhopal. | MP Dukan Evam Sthapna Act, 1958. |
| 3. MP Text Book Corporation, Bhopal | MP Societies Registration Act, 1959. |
| 4. MP State Warehousing Corporation, Bhopal | Warehousing Corporation Act, 1952. |
| 5. MP Mahila Arthik Vikas Nigam, Bhopal | MP Non-Trading Corporation Act, 1962 (No. 20 of 1962) |
| 6. MP Rajya Bhumi Vikas Nigam, Bhopal. | MP Land Development Corporation Act, 1976. |
| 7. MP Matsya Vikas Nigam, Bhopal | MP State Fisheries Development Act, 1979. |
| 8. MP Seed and Farm Development Corporation, Bhopal | MP State Seed and Garm Development Act, 1980. |
| 9. MP Housing Board, Bhopal | MP Grih Nirman Mandal Adhiniyam, 1972. |
| 10. MP Khadi and Gramodyog Board, Bhopal | MP Khadi and Gramodyog Adhiniyam, No. 2 of 1978. |
| 11. MP Rajya Pashudhan Evam Kukkut Vikas Nigam, Bhopal | MP Rajya Pashudhan Evam Kukkut Adhiniyam. |
| 12. MP Electricity Board, Jabalpur | Electricity Supply Act, 1948. |
| 13. MP State Road Transport Corporation, Bhopal | Road Transport Corporation Act, 1950. |

THE EIGHTH SCHEDULE*(see Section 64)***CONTINUANCES OF FACILITIES IN CERTAIN STATE INSTITUTION****List of Training Institutions/Centre**

1. Prevention of Food Adulteration Organisation (including State laboratory) Controller, Food and Drugs, Lal Ghati, Bhopal.
2. State Institute of Health Management and Communication. Director, State Institute of Health Management and Communication, Near City Centre, Gwalior (M.P.)
3. M.P. State Seed Certification Agency, Office Complex, B-2, Gautam Nagar, Bhopal.
4. M.P. State Forest Research Institute Polipathar, Narmada Road, Jabalpur.
5. Pandit Kunjilal Dubey Rastriya Sansadiya Vidyapeeth, Old Vidhan Sabha Campus, Bhopal (MP).
6. Mahatama Gandhi State Institute of Rural Development and Training, Adhantal, Jabalpur (MP).
7. M.P. State Employment and Training Institute, Rajiv Gandhi Bhawan, Shyamla Hills, Bhopal.
8. State Academy of Administration, Hilkarni Nagar, 1100 Quarters, Bhopal.
9. Medico Legal Institute, Gandhi Medical College, Bhopal.
10. Rangers Training College, Balaghat.
11. Agriculture Cooperative Staff Training Institute of Apex Bank, Kotla Sultanabad, Bhopal.
12. State Institute of Health Management and Communication, Gwalior.
13. Police Training College, Sagar.
14. Tribal Research and Training Institute, Shyamla Hills, Bhopal.
15. Jail Training Centre, Jabalpur.
16. Forensic Science Laboratory, Sagar.
17. M.P. Water and Land Management Institute, Walmi Hills, Near Kaliasote Dam, Kolar Road, Bhopal.
18. State Professional Handicrafts and Rural Development Training Institute.
19. Sanjay Gandhi Youth Leadership and Rural Development Training Institute, Pachmari, District Hoshangabad.
20. Baba Sahib Ambedkar National Social Sciences Institute, Mhow, District Indore (MP).
21. M.P. State Council for Educational Research and Training, Bhopal.

STATEMENT OF OBJECTS AND REASONS

In his address delivered to Parliament on 25th March, 1998, the President announced that the Government was committed to initiate action to carve out the State of Chhattisgarh out of the existing State of Madhya Pradesh. The Bill seeks to give effect to that commitment and aims at reconstituting the existing State of Madhya Pradesh into two separate States.

2. The Bill provides for the territories of the two States and makes the necessary supplemental and incidental provisions relating to representation in Parliament and in the State Legislatures of distribution of revenues, apportionment of assets and liabilities, management and development of water resources and other matters.

3. While taking decision to carve out a separate State of Chhattisgarh out of the existing State of Madhya Pradesh, the Government has also decided that a dedicated Unit shall be set up in the Planning Commission under the direct charge of the Deputy Chairman, Planning Commission, to deal exclusively with matters relating to the rest of Bihar consequent upon formation of the State of Chhattisgarh. This Unit will, *inter alia*, ensure that, with the help of better financial management and adequate devolution of funds from the Centre, multifaceted development of the region takes place, especially with respect to core infrastructure.

4. The proposed reorganisation of the existing State of Madhya Pradesh will meet the democratic aspirations of the people of the State of Chhattisgarh.

L. K. ADVANI.

NEW DELHI;
The 17th December, 1998.

Clause 2(h) - The population ratio of 48566:17615 for the States of Madhya Pradesh and Chhattisgarh has been taken on the basis of the 1991 census for the two regions.

Clause 3 provides for the formation of a new State of Chhattisgarh by transferring 16 districts, namely, Bastar, Bilaspur, Dantewada, Dhamtari, Durg, Janjgir-Champa, Jashpur, Kanker, Kawardha, Korba, Koriya, Mahasamund, Raigarh, Raipur, Rajnandgaon and Surguja from the existing State of Madhya Pradesh. *Clause 5* seeks to make certain consequential amendments in the First Schedule to the Constitution under the heading "1. THE STATES" to insert the name of the new State of Chhattisgarh at S. No. 26. *Clause 6* expressly saves the power of State to alter the name of any district or other territorial division in the State.

Clauses 7 and 8 deal with the representation of the States of Madhya Pradesh and Chhattisgarh in the Council of States. *Clause 7* seeks to make consequential changes in the Fourth Schedule to the Constitution. *Clause 8* and First Schedule provide that out of 16 sitting members of the Council of States representing the existing State of Madhya Pradesh, 5 sitting members will represent the new State of Chhattisgarh and the remaining 11 sitting members will represent the State of Madhya Pradesh.

Clauses 9 to 11 deal with the representation of the States of Madhya Pradesh and Chhattisgarh in the House of the People. Out of 40 seats representing the existing State of Madhya Pradesh in the House of the People, 11 seats will be allotted to the State of Chhattisgarh and the remaining 29 seats will represent the State of Madhya Pradesh. The allocation of seats has been made on the basis of the territorial location of the constituencies. The First Schedule to the Representation of the People Act, 1950 will be suitable amended. The Delimitation of Parliamentary and Assembly Constituencies Order, 1976 will also be amended.

Clauses 12 to 16 - At present, there are 320 seats in the Legislative Assembly of the Madhya Pradesh of which 230 seats have been allotted to the State of Madhya Pradesh and 90 seats have been allotted to the State of Chhattisgarh. The allocation of seats in this case also has been based on the territorial location of the constituencies concerned. Consequential amendments will be made in the Second Schedule to the Representation of the People Act, 1950. The sitting member of the Legislative Assembly of the existing State of Madhya Pradesh nominated to represent the Anglo-Indian community shall be deemed to have been nominated to represent the said community in the Legislative Assembly of Madhya Pradesh. *Clause 16* provide that the rules of procedure and conduct of business of the Legislative Assembly of Madhya Pradesh shall apply to the Legislative Assembly of the State of Chhattisgarh also until the rules and procedures are made by the Legislative Assembly of the State of Chhattisgarh under article 208 of the Constitution.

Clauses 17 and 18 - Under these clauses, the Election Commission has been given the powers for the delimitation of constituencies and also for the allocation of seats for the Scheduled Castes and the Scheduled Tribes in the House of the People and the Legislative Assemblies of the States of Madhya Pradesh and Chhattisgarh.

Clause 19 and Third Schedule - Through this clause, the Constitution (Scheduled Tribes) Order, 1950 has been amended as given in the Fourth Schedule.

Clause 20 and Fourth Schedule - Through this clause, the Constitution (Scheduled Tribes) Order, 1950 has been amended as given in the Fourth Schedule.

Clauses 21 to 32 deal with the establishment of a common High Court for the States of Madhya Pradesh and Chhattisgarh, its composition, power and functions and the procedure to be followed by it. The detailed provisions contained in these clauses are in line with the clauses for setting up a common High Court in the Punjab Reorganisation Act, 1966.

Clause 33 - In order that the administration of the new State of Chhattisgarh can be carried on until the Legislature of that State has sanctioned expenditure from the

Consolidated Fund of that State and passed the necessary Appropriation Act, provision has been made in this clause for the Governor of Madhya Pradesh to authorise, at any time, before the appointed day such expenditure as he thinks necessary for a period of six months from that date; a similar power is conferred on the Governor of Chhattisgarh after the appointed day.

Clause 34 contains the usual provision that the reports of the Comptroller and Auditor General of India for any period prior to the appointed day should be submitted to the Governors of Madhya Pradesh and Chhattisgarh and enables the President to take such further action as may be appropriate under the circumstances.

Clause 35 seeks to empower the President to determine the share of the States of Madhya Pradesh and Chhattisgarh in the total amount payable to the existing State of Madhya Pradesh on the recommendations of the Finance Commission constituted under article 280 of the Constitution, in such manner as he thinks fit.

Clauses 36 to 56 relate to apportionment of assets and liabilities of the State of Madhya Pradesh among the successor States and are guided by the followings principles:-

(i) Going by natural, cardinal principles of succession, all the assets and liabilities should be apportioned in the ratio of population. The particular assets and liabilities should be apportioned in the ratio of population. The particular assets and liabilities to be transferred should be identified on consideration of nexus, proximity and expediency. Consistent with the requirement that the successor States should be identified on consideration of nexus, proximity and expediency. Consistent with the requirement that the successor States should have full and mutually exclusive executive/legislative control on all subjects having a direct territorial nexus with their territories, all the physical assets are to be apportioned on the basis of location. The proximity of nexus consideration, which may be preferable basis of allocation in the case of allocation of physical assets and liabilities, may not be suitable for allocation of financial assets and liabilities which should preferably be allocated by overall valuation and apportionment on the basis of population ratio. Further, the financial assets in the nature of rights to receive moneys (where by way of arrears of tax or non-tax revenue or by way of recovery of loans) are to be apportioned on considerations of territorial nexus with the persons from whom the moneys are receivable. Other assets and liabilities may be apportioned primarily on the basis of territorial nexus, failing which on the basis of population.

(ii) The apportionment of assets and liabilities would be subject to such financial adjustment as may be necessary to secure just, reasonable and equitable apportionment of the assets and liabilities among the successor States.

(iii) All liabilities on account of Public Debt and Public Account of the existing State of Madhya Pradesh outstanding immediately before the appointed day shall be apportioned in the ratio of population of the successor States unless a different mode of apportionment is adopted under specific provisions of this Act. The individual items of liabilities to be allocated to the successor States and the amount of contribution required to be made by one successor State to another shall be such as may be ordered by the Central Government in consultation with the Comptroller & Auditor General of India. Till such orders are issued, the liabilities on account of Public Debt and Public Account of the existing State of Madhya Pradesh shall continue to be the liabilities of the successor State of Madhya Pradesh. As an exception, the liability on account of loans raised and repaid by the predecessor Governor to such entities as are notified by the Central Government and whose area of operation is confined to either of the successor States would devolve on the respective States.

(iv) Any dispute regarding the amount of financial assets and liabilities shall be settled through mutual agreement, failing which by order of the Central Government on the advice of the C&AG of India.

(v) The outstanding Public Debt attributable to loans raised by the issue of Government securities and held by public is sought to be retained in the books of MP (successor)

and Chhattisgarh is expected to contribute its share for servicing and repayment of the debt. The outstanding Public Debt attributable to loans received from Central Government agencies and re-lent to other bodies in the State is sought to be allocated on the basis of ultimate borrowers.

(vi) Subject to legislation by competent legislature, the successor States would be entitled to receive benefits arising out of the decisions taken by the predecessor State and the successor States would be liable to bear the responsibilities and liabilities arising out of the decisions taken by the predecessor State.

(vii) The liability of paying retirement benefits and Provident Fund balances to employees should be allocated on the basis of permanent allocation of the Government servants.

(viii) Contractual liabilities other than those of loans, guarantees, bank balances, securities and other financial obligations are sought to be allocated on the basis of the exclusive purpose of the contract or through agreement.

(ix) The right to recovery of loans and taxes would vest in the State according to the principal place of business/occupation of the loanee or assessee. The liabilities to refund any tax or duty on property including land revenue as also the right to collect arrears of tax or duty on property including land revenue would be allocated on the basis of the location of the taxed property.

(x) Items lying in suspense which are ultimately found to affect assets or liabilities may be dealt with according to the allocation of that asset/liability.

(xi) The liability on account of loans raised from any source and re-lent by the existing State of Madhya Pradesh to such entities as are notified by the Central Government and whose area of operation is confined to either of the successor States shall devolve on the respective States as detailed in sub-section.

(xii) The balances in the Reserve Funds in the Public Account of Madhya Pradesh created wholly out of appropriation from the Consolidated Fund of Madhya Pradesh, to the extent the balances have not been invested outside Government account, should not be carried forward to similar Reserve Funds in the Public Account of Madhya Pradesh and Chhattisgarh. The securities held in respect of investments made from Cash Balance Investment Account or from any Fund in the Public Account of Madhya Pradesh shall be apportioned in the ratio of population of the successor States.

Clauses 57 to 60 provide that the State Electricity Board, State Warehousing Corporation, Madhya Pradesh State Financial Corporation, certain corporations and statutory corporations will continue to function in the same areas until either they are dissolved or reorganised under directions of the Central Government or through other provisions given.

Clause 61 makes a provision for continuance of the road transport permits issued by the State Transport Authority or the Regional Transport Authority of the existing State of Madhya Pradesh even after the reorganisation of the State. This clause also provide that no tolls, entrance fees or any other charges shall be levied on any transport vehicle for its operation in any of the successor States if such vehicle was exempt from payment of any such toll/entrance fees or other charges for its operation prior to reorganisation.

Clause 62 makes special provision relating to payment of retrenchment compensation to the employees on reorganisation/reconstitution of any body corporate constituted under Central Act, State Act, Provincial Act, any cooperative society registered under any law relating to cooperative societies or any industrial undertaking of that State after the reorganisation of the State.

Clause 63 entitles a body corporate to carry forward or set off gains or losses in accordance with the provisions of the Income-tax Act, 1961 if its assets, rights or liabilities are transferred to any other body corporate, which after the transfer carry on the same business.

Clause 64 allows the continuance of similar facilities to the employees of certain State institutions specified in the Eighth Schedule.

Clauses 65 to 71 make provisions relating to services. *Clause 65* provides for creation of two separate cadres for the State of Madhya Pradesh and the new State of Chhattisgarh for the Indian Administrative Service, Indian Police Service and the Indian Forest Service, in place of the existing cadre of the State of Madhya Pradesh in respect of these three services. It also confers powers on the Central Government to determine the strength and composition of the new cadres and allot new officers thereto in consultation with the State Government concerned. *Clauses 66 to 68* provide the procedure for allocation of officers serving under the Government of Madhya Pradesh to the States of Madhya Pradesh and Chhattisgarh. *Clause 69* empowers the Central Government to establish Advisory Committees for the purpose of assisting it in regard to discharge of any of its functions relating to the services and ensuring fair and equitable treatment of all persons affected by these provisions and proper consideration of any representation. *Clause 70* empowers the Central Government to issue directions to the State Government of Madhya Pradesh and the State Government of Chhattisgarh as are considered appropriate for the purpose of giving effect to the provisions relating to the services. *Clause 71* provide that the Public Service Commission for the existing State of Madhya Pradesh shall be the Public Service Commission for the State of Madhya Pradesh. It also entitles the Chairman and other members of the Public Service Commission of the State of Madhya Pradesh with the same facilities as they were entitled to prior to the reorganisation of the State.

Clauses 72 to 76 provide for the management and development of water resources in the two States and constitution of a Board to be called the Sone Management Board for administration, construction, maintenance and operation of provisions in the field of irrigation, rural and urban water supply, hydro-power generation and navigation. The composition and jurisdiction of the Board has also been provided in these clauses.

Clauses 77 to 86 are of miscellaneous and legal nature and they generally follow the corresponding provisions of the Bombay and Punjab Reorganisation Acts.

FINANCIAL MEMORANDUM

Clause 39 of the Bill, which deals with distribution of revenues, provides that the President shall, by order, determine the share of the States of Madhya Pradesh and the State of Chhattisgarh in the total amount payable to the existing State of Madhya Pradesh on the recommendation of a Finance Commission constituted under article 280 of the Constitution of India, in such manner as he thinks fit. Leaving aside some marginal increase in the administrative expenditure of the departments and agencies of the Central Government in connection with the implementation of the proposed legislation, no additional expenditure will be involved from the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 39 of the Bill empowers the President to determine, by order, the share of the State of Madhya Pradesh and the State of Chhattisgarh in the total amount payable to the existing State of Madhya Pradesh on the recommendation of a Finance Commission constituted under article 280 of the Constitution of India, in such manner as he thinks fit.

2. Clause 84 of the Bill provides that, for the purpose of facilitating the application in relation to the State of Bihar or the State of Chhattisgarh, of any law made before the appointed day, the appropriate Government may, before the expiration of two years from that day, by order, make such adaptations and modifications of the law, whether by way of repeal or amendment, as may be necessary or expedient, and thereupon every such law shall have effect subject to the adaptations and modifications so made until altered, repealed or amended by a competent Legislature or other competent authority.

3. Clause 85 of the Bill deals with the power to construe laws. Clause 86 of the Bill deals with the power to name authorities, etc., for exercising statutory functions.

4. Similar provisions exist in other State Reorganisation Acts passed by Parliament earlier. These provisions are mainly of a consequential nature or pertain to matters of detail and procedure. As such, the proposed delegation of legislative power is of a normal character.

S. GOPALAN,
Secretary General.